

THE WHOLE
OFFICE
OF THE
COUNTRY JUSTICE
OF
PEACE.

Wherein is plainly set down all their
Power and Duty both in and out of the
QUARTER SESSIONS.

THE FIRST PART
Containing their Power and Duty out of
the SESSIONS.

By William Sheppard Esquire.

2 Chron. 19. 5, 6, 7.

*And he set Judges in the Land throughout all the
fenced Cities of Judah, City by City.*

*And he said to the Judges, Take heed what ye do,
for ye judge not for man, but for the Lord, who is
with you in the judgement.*

*Wherefore now let the fear of the Lord be upon
you, take heed and do it, for there is no inquiry with
the Lord our God, nor respect of persons, nor taking
of Gifts.*


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TO THE
WORSHIPFUL
THE JUSTICES OF
PEACE WITHIN THE
COMMON-VVEALTH of
ENGLAND.

Gentlemen,

 Ho, if not you,
may challenge
my Dedication
of this Piece? And from
whom, if not from you,
may I expect and chal-
lenge the Protection
and Countenance there-
of? At your feet there-

A 3 fore

The Epistle Dedicatory.

fore I leave it, and if now
it may finde favour in
your sight, it is enough
much to oblige


*Your most humble
Servant,*

W.S.

To

To the Reader.

Courteous Reader,

 *When I was first called to
to the Office of a Iustice
of Peace, I did (as I
thought I ought to do)
study the Office, and
made a draught thereof for my self :
the which upon weighty Causes I of-
fer to the Publike herein. This Office
is doubtless an Office of speciall use in
our Common-wealth. And by this
and my former Treatise of the Con-
stables (another Officer of the Peace
of this Common-wealth) thou maist
easily perceive of what a large extent
these Offices are, and how many good
Lanes these Officers are trusted with
the execution of : and by comparing*

To the Reader.

the same with what is done by these Officers in the execution of these Offices, thou canst not but observe a vast difference betwene the Power and the Execution thereof. The Trust and Power is great, the use and employment therof is little. And truly I may say, We have been the most happy Common-wealth for ^a having, and the most unhappy for Execution of good Lawes in the World. For ^b the life of Law being in execution, we doth not see that most of our Lawes are but dead, and breathless Carcasses, ^c and they themselves by their non-execution are executed? These seem to have been (amongst others) two special Causes hereof.

^a Leges Angliae communes ex omnibus legibus humanis, utilissima, cernissima, integerrima, expectatissima, facillima.

^b Anima Legum administratio.

^c Hooker. The not executing of Lawes

upon offenders, is the execution of the Lawes themselves.

1. The want of Information.

2. The unfitnesse of the men chosen to the Offices for the Execution of Lawes. For either they have been

^d igno

To the Reader.

^d ignorant, and know not, ^e coward- ^a Qui va-
 ly and dare not, ^f otherwise engaged ^{dit in re-}
 and imployed and cannot, ^g or lazy ^{nebris nes-}
 and negligent and will not do the ^{cit quo va-}
 duty of their Places. They have ^{dit.}
 wanted will or skill. They have ^e Prov.
 Price in their hand, but have no ^{29. 5. The}
 heart to it. Here's the Disease, ^{fear of}
 and ^h grievous it is to the People: ^{Man is a}
 and the Cure is obvious, and already ^{snare. Qui}
 espied, and begun by our State-Physi- ^{non est for-}
 cians. Let able and fit men be chosen ^{is facile}
 to, and kept in these Offices. And ^{ad injuste}
 truly (if I be not mistaken) herein ^{faciendum}
 lieth almost the whole Worke of Re- ^{vincitur.}
 formation in Church and Common- ^f 2 Tim.
 wealth, to make and keep the Officers ^{2. 4.}
 thereof good. For let the Lawes and ^g Pro. 24.
 Modell for Government be never so ^{30, 31.}
 good, if the Officers trusted with the ^h Praefse
 Execution thereof be naught, little ^{& non}
 fruit will come thereof. Had our Bi- ^{prodesse}
 shops, and Officers about them been ^{molestum.}
 chosen out of the best men of the
 Time

To the Reader.

*Time, doubtlesse Episcopacy had not
 been so grievous and odious : and
 exchange it for Presbytery, and let
 the Presbyters be ambitious, cove-
 tous, and contentious; and may
 not this Modell bee more grievous
 and odious? The like may be said of
 the Independent Modell. Make the*
 7 EXO. 18. *Tree good and the Fruit will be good.*
 21. *Deut. 1. 13. Pro. 29. 2. When the righteous are*
 15. *in authority the People rejoyce,*
 2 Sam. 23. *Happy People that live under such*
 3. *Trees as Joseph, Daniel, & Morde-*
 1 Chron. *cai were. Let our Iustice of Peace then*
 26. 6. *be curiously chosen out of the fit-*
 Prov. 28. *test of men, after the draught of*
 16. *Scripture Magistrates, with these*
 Gen. 17. 6. *Properties. i.e. Let him be 1. An able*
man, Vir virtutis, a man able in bo-
dy and minde to do the Common-
wealth service; not an Ignoramus,
one that can do nothing without his
Clerke, for it is an Office of skill and
pains, and the Work of a strong man.

To the Reader.

2. *A man fearing God, not a man wicked in life and conversation; for Power without Piety is but armed Injustice; and^k if he can do much, he will be sure to do much mischief. I understand not the meaning of that politick Maxime, A bad man may be a good Common-wealths man. It seems to have more truth in it, *That he that hath no care to reform himself will never have care to reform others. 1 Tim. 3. 5. Magistrates are Umbratiles dii, well it were if they did more lively represent divine Perfections. And it is pudendus pudor, to see a man in Honour unlike to God in holiness.*

A Magistrate's honour is his holiness.
* Corruptio optimi pessima.

* Quis custodiat ipsos custodes?

He can never be faithful to me that is not faithful to God.
Constantinus.

* There are three principall ornaments of a Justice, Justice, Wisdom, and Fortitude.
Lamb.
Nos numerus sumus.

3. * *A man of understanding and judgement, one that can discern what is æquum, distinguish between the weight and Justice of the Complaint and malice of the Plaintiffe, one that can speake the Law, and judge according to the Rule thereof,*

not

To the Reader.

not weak for Abilities of Govern-
ment.

4. A man of Courage, valiant for God and his Truth, and in the execution of his Office, not fearfull and dastardly. Welfare the Emperour, that being asked, whom he loved best, answered, He that doth not fear me more than God. I wish then, that all fearfull Iustices would doe as those fearful Souldiers, Iudg. 3. did, leave the Work, being good for nothing but to make up a number.

* *Magis amica veritas, fundamentum pacis veritas, stabilimentum utriusque potestas.*

* Acts 24. 26.

Demosthenes bribed by the Milesians.

5. * A man of Truth, one that loves Truth in himself and others, and counts it his duty and dignity to sift it out in all things, and having found it, to embrace and maintain it to the uttermost; for he will easily prove a false Friend, that will at any time dare to falsifie Truth for his Friend.

6. * A man hating Covetousnesse, one that will not let go the guilty, or punish

To the Reader.

punish the guiltless for gain, that shaketh his hands from holding Bribes; For Covetousnesse is not onely Idolatry, but it makes the covetous Indge an Idolater, Esay 33.15. That have eyes and see not, ears and hear not, and a mouth and speaketh not.

7. A just man, one addicted and affected to Justice.

8. An active, not a lazy man.

9. A known man, (that is, * as * See the
some take it) a man experimented Annotati-
amongst the People for these things, ons of
or (as others take it) a man excel- Deodate,
ling others for Reputation, Power, and the
and Ranke, not an obscure and Divines of
mean man; for power will arm the As-
skill; and it is as absurd* (as one ssembly
saith) to advance to Places of Rule upō Deut.
men weake for Abilities: as for a 1.13.15.
Servant to ride on horse back, and the chiefe
the Master to lackey on foot. I say of the
not, Every Justice of Peace must Tribes.
have * Pemble
on Eccles.
10.4.

To the Reader.

have one thousand pounds a year, or be a Gentleman, &c. But I say, he had need to have enough to carry him through his Office; and it were fit he did excell other men, if not in these things, yet at least in wisdom, piety, courage, and better qualifications. Prov. 12. 26. The Righteous is more excellent than his neighbour. Such men as these doubtlesse will seek the things of Christ and Christians, not their own. Phil. 2. 21. 1 Cor. 10. 24, 33. Wait on their Ministry, and rule with diligence. Rom. 12. 7, 8. Iudge the People at all Times. Exod. 18. 22. Be industrious in their Places. 1 Sam. 7. 16. Psal. 101. 8. Such men will consider, that they execute the Iudgements of God, and not of men, that he sits amongst them, and looks on them, and that there is no iniquity in him, respect of persons, nor taking of Gifts. And there-

To the Reader.

therefore they laying aside all partiality, respect of persons, base fear, foolish pity, sinfull favour, and malice, unnecessary delay, precipitate rashness, and self-seeking, will duly, indifferently, and uprightly minister justice to every man. And the God of Order, and King of all Government give us such Justices, and grant us such an Execution of judgement and justice, that our Officers according to the Prophecy, Esay 60. 17, 18. May be Officers of Peace, &c.

Psal. 101.
12.
Chron.
19. 6.
Psal. 82. 2.
Deut. 16.
19. 17. 4.
1. 17.
Prov. 26.
12.
Levit. 19.
18.
Jam. 1. 20.
Ecclus
11. 7, 8,
Judg. 19.
30.

If any now shall thinke this Labour superfluous, there being already in Print so many excellent Pieces of this Subject, Let me intreat them to suspend their judgement till they have read it; for then they will finde many things in this that were not, many other things that could not be in any of the former: and that

To the Reader.

that which is here, and was in the
former they shall finde here in a dress
and method much differing from the
former.

And so farewell,

Thy true Friend,

W. S.

THE



The whole Office of the Country Justice of Peace.

CHAP. I.

Of the power of Justices of the Peace in Ge-
nerall.



Ny one Justice of the Peace, whe-
ther he be of the Quorum or not,
may doe most of the works which
belong to their Office ; but some
things cannot be done by lesse then two Justi-
ces of Peace , for where power is given to two
of them to doe a thing, one alone cannot doe it ,
and in some cases, and for the doing of some
parts of their Office it is requisite that one or
two more be of the Quorum. But where one Ju-
stice may doe a thing, there two or more may
doe it, for it may be done by more though
it cannot be done by fewer. *Dalt. J. P. fol. 26.*
7. 73. &c.

Seß. 1.
What one
Justice of
Peace may
doe out of
the Sessions,
and where
there must
be two or
more to doe
anything.
And of their
power and
Office in ge-
nerall.

2. When a Statute appointeth a thing to
be done by two Justices of Peace, if the of-
fence be a misdemeanor or matter against the
peace, upon complaint to any Justice of Peace
of this offence done , he may grant his warrant
to attach the offender , and bring him before
these two Justices, or to finde sureties for his ap-
parance

Seß. 2.
Peace.

Warrant.
Arrest.

Cap. 1.
Good Behaviour.

pearance at the next Sessions to answer this Offence. Or if he see cause, he may binde him to the good Behaviour, and so to appear at the next Sessions. But he alone cannot determine the matter. *Dalb. J.P. 29.*

Seſſ. 3.

All that Justices of Peace have power to do it seems it is their duty to do; and what is their duty to do, they have power to do. And for their neglect of their duty they may be punished in one way or other.

Posse Comitatus.

Seſſ. 4.

Felons.
Peace.

Any one Justice of the Peace when need requireth, may take with him, or require for his assistance in the execution of any part of his Office, as to apprehend Felons, keep the Peace, or the like, any number of men he shall think fit. And such as are able must obey their Commands herein, or they may be bound to the good Behaviour, or fined for their disobedience. 5.

Good Behaviour.

Seſſ. 5.
Peace.

A Justice of Peace as touching the keeping of the Peace may do all that a Constable, or private person may do by the Common Law. 6.

Seſſ. 6.

They are in the room of the ancient Conservatores of the Peace, and have the same power they had. 7.

Seſſ. 7.

Sessions.

Where a Statute doth give a power to Justices of Peace of *Oyer and Terminer* in general to any Offence, and saith not where, there it may be done, and cannot be done out of one of the Sessions. But if it give them a power to do any special thing, as make a rate or the like, and saith not where, there they may do it in or out of either of the Sessions, 22. H. 5. *Cook 2. part of his Inst. 703, 704.*

Seſſ. 8.

Where a thing is to be done by the Justice

with

Of the Power of Justices of Peace. 3

with the assent of others, neither of them alone Cap. 2.
can do it. Cook 2. part of his Inst. 704.

CHAP. II.

Of the Lords Day.

ANy one Justice of Peace within a moneth after the Offence, may upon view, confession, Oath of one Witness against any that have met out of their Parish on this day for any sport whatsoever, or within their own Parish for Bear-baiting, Bull-baiting Enterludes, or other unlawfull Exercise; give Warrant under his hand and Seal to the Constables or Church-wardens of the place, where the Offence is done to levie three shill. four pence by distress and sale of Goods to the use of the Poor, and for want of Distress to put him in the Stockes three houres, 1. Car. 1. 2. So he may within six weeks after the Offence, upon view, confession, or Oath of two Witnesses, against any Carrier that hath gone with his horse, Waggoner, Carter, or Way-man, that hath gone with his Cart, Waggon, or Wain, or Drover that hath gone with his Cattell on this day, by his Warrant to the Constables or Church-wardens cause to be levied (as before) twenty six shillings and eight pence on the Butcher that shall kill or sell any victuals on this this day, 3. Car. 1.

Stat. 1.

The power and duty of Justices of Peace here- in out of Sessions.

And he may give, if he see cause, a third part
B 2 of

Of the Lords Day.

of the two last Forfeitures to the Prosecutor for a reward, 3. *Car. 1.*

4. If any one publikely cry, shew forth, or put to sale any Wares, Merchandises, Fruit, Herbs, Goods, or Cattel, on that day, (which ought to be kept holy by mens exercising of themselves in the duties of pietie and true Religion publikely and privately) unless it be in an Inn or victualling house for such as cannot be otherwise provided for, and unless it be crying or selling of milke before nine in the morning and after four in the afternoon from the tenth of *Sept.* till the tenth of *March*, or before eight in the morning and after five in the afternoon from the tenth of *March* till the tenth of *September*, he forfeits the things, and any one Justice of Peace upon view, confession, of the party or proof by Oath of one Witness of the Offence, may give Warrant under his hand and Seal to the Constables and Church-wardens of the place, where the Offence is done, to seize it to the use of the poor.

5. And if any one without reasonable cause, travel, carry, burdens, or do any work on any part of this day, any one Justice may give a Warrant under his hand and Seal to the Constable or Church-wardens of the place to levie of his Goods that travels ten shill. And of him that doth any worldly work, or that carries any burdens, 5 s. to the Poores use rendring to them both the overplus.

6. And if any one on this day keep, use, maintain, or be present at any wrestlings, shootings, bowling, ringing of Bels for pleasure or pastime, Masque, Wake, Church-ale, Dancing, games, sport or pastime whatsoever, any one Justice may give Warrant under his hand

and

and Seal to the Constables and Church-wardens of the place where the Offence is done (the Offender being above fourteen years old) to levie of his Goods five shill. and of him that hath the Government of him that is under fourteen years old twelve pence to the poors use, rendring to them the overplus. 7. And if in these cases no distress be to be had, or the Offender be not able to pay the Forfeiture, then the Justice may set him publikely in the Stockes for three houres. 8. And in these cases the Justice may give what he thinks good of the Forfeiture, not exceeding a third part to the Informer. 9. Any one Justice may cause the Constables or Church-wardens of the place to seize, suppress, and publikely burn all Bookes that have been or shall be written against the morality of the fourth Commandment. 10. The Justices of the Peace are to take order that all Rogues, Vagabonds, and Beggars do on this day repair to some Church, and there continue to' erly during the time of divine worship, *Ord. April 1544.* 11. The Justices of Peace in their severall limits for the better observation of this day must take a strict monethly account of the observation of the Ordinance of *April 1544.* Ordinance of Parliament *9. Decemb. 1645.* 12. Upon the Statute of *1. Car.* there shall be but one twenty shill Forfeit by one Offence, albeit the Cattel be driven through divers Parishes. And where the Action is first attached or Distress taken, that Parish shall have the benefit of the Forfeiture, *Resol. of the Judges, 1645. Car. R. 15.*

C H A P. III.
Of coming to Church.

The office
and power
of the Ju-
stices here-
in out of
Sessions.

ANy one Justice of Peace may upon con-
fession or Oath of one Witnes within a
moneth after the Offence call before him
any Person whatsoever, that doth absent himself
any Lords day from the Church, and doth not
abide there orderly during the time of divine
Exercises, and (if he cannot give him a good
excuse) by Warrant under his hand and Seal re-
quire the Church wardens to levie on him by
distress and sale of his Goods twelve pence
day, and for lack of distress send him to Prison
till Payment, 1 *Eliz.* 2. 3. *Jac.* 4. For opening
whereof these things are to be known. 1. If he
be at any other lawfull Church, though he be
not at his own it is sufficient. 2. He must be
there morning and evening during all the time
of the Exercises. 3. The Popish Recusant con-
vict is to pay this twelve pence a week and the
twenty pounds a moneth besides, but others are
not, *Dalt. J. P.* 128.

C H A P. IV.

Of disturbing a Minister.

The office
and power
of the Ju-
stices of
Peace here-
in out of
Sessions.

ANy Justice of Peace upon Complaint
may commit to safe keeping for six dayes
him that maliciously disturbeth a Minister
in doing divine Service; him that shall procure
this

Of disturbing the Minister.

7

Cap. 5.

this Disturbance, and him that shall rescue such a Disturber being apprehended. But there must be two Justices of Peace to joyn in the Examination of the Offence, and they must do it within the six dayes. And these upon the parties confession, or Oath of two Witnesses may commit him to Goal for three moneths, and till the next Quarter Sessions, 1. *M. Sess. 2 chap. 3.* But some doubt of the continuance of this Law, and think it to be repealed by 1. *Eliz. 21.* The better opinion is that it is in force and doth continue.

CHAP. V.

Of depravers of the Sacrament.

THERE must be three Justices of Peace *Quorum unus* to take Information upon the Oath of two Persons against him that doth deprave, or speak unreverently of the sacrament of the Lords Supper, And to bail the Offender: and to binde the Accuser and Witnesses in five pounds a piece to give evidence at the day of Triall. And this it seems they may do out of Sessions, 1. *Edu. 6. 1. 1. Eliz. 1. Dalt. P. 49.*

The duty and power of Iustices of peace herein out Sessions, Bayl.

C H A P. VI.

Of Swearing.

The duty
and power
of the Ju-
stices of
Peace here-
in out of
Sessions.

ANy one Justice of Peace may upon
own hearing, the Parties confession,
Oath of two Witnesses of any that
profanely curse or swear, make his Warrant
the Constables, Church wardens and Over-
seers of the Poor of the Parish, where the Offence
committed, to levie to the use of the Poor
that place twelve pence by distress and sale
Goods; and for lack of Distress, if he be above
twelve years old, to set him in the Stocks three
houres, if under, make his Warrant to the
Constable to whip him, or to see his Parents or
Master whip him. But this Offence must be com-
plained of, and proved within twenty dayes
after it is done; otherwise the Justice of Peace
cannot punish it. 21. Jac. 20. 3. Car. 4.

C H A P. VII.

*Of Popish Priests and other Papists and
Recusants.*

The power
and duty of
the Justices
of Peace
herein out
of Sessions.

IF any *Agnus Dei* be discovered to the Justice
of Peace, he must acquaint one of the Privie
Council with it within fourteen dayes, *Sub*
pœna Premunire, 13. El. 2.

If any Jesuit or Priest be made known
him, he must acquaint one of the Privie Coun-

Of Popish Priests and Recusants.

9

cel with it within twenty and eight dayes *sub* Cap. 7.
pœna 200 Markes. 27. *El.* 2.

Any one Justice of Peace may require a Popish Recusant [or other Sectarie] within three moneths after his conviction to submit and declare his Conformitie to the Laws of Recusants; and in case he do not, he may (if it be not a *Feme Covert*) require him to abjure the Realme, but the Abjuration must be at the Quarter Sessions. 35. *El.* 1. 21. *Jac.* 28.

Feme Covert.

Abjuration.

2. Sessions.

Yet a Popish Recusant may abjure before two Justices of Peace by 35. *El.* 2. So he may within three dayes after the thing done take Information of Masse said, 3. *Jac.* 5.

Masse.

But there must be two Justices of Peace to require a Popish Recusant above sixteen yeares old, which shall travell above five miles from his dwelling without licence, if he have less than twenty Markes Free-hold *per annum*, or forty pounds in Goods, to conform in three moneths, or else abjure. And this he must certify to the Assizes, 35. *Eliz.* 2. So that there must be two Justices of Peace to do these things following, *viz.* To examine one suspected to be a Jesuit or Priest that refuseth to answer directly, and to commit him to Gaol without Bail till he do so. 35. *El.* 2. To charge men to forbear to keep or relieve any Servant Sojourner or Stranger in his house that doth obstinately refuse to come to Church one moneth together. 35. *El.* 1. To give an Oath to a Recusant licensed by him and three others to travell. 3. *Jac.* 5. To search their houses, who, or whose Wives are Recusants for Popish Books and Reliques, and burn them, or if they be of value, deface and restore

Certificate.

Jesuit.

Commitment.

Bail.

Oath.

Popish Books.

restore

Cap. 8.

Oath.

Recusant.

restore them. To take the Submission of one reconciled to the Pope, within six dayes after his return, and give him the Oath of Supremacie and Allegiance, and certifie it to the next Sessions, 3. *Ja* 4. And there must be two Justices *Quorum unus* to commit to Prison a *Feme Covert* Recusant not conforming in three moneths unless her Husband will pay ten pounds a moneth, or the third part of his Lands, 7. *Ja* 6.

See more in *Dalt. J. P.* 130, 131, 132, *Co. Stat.* 35. *El.* 2. 27. *El.* 2.

C H A P. VIII.

Of Felonie.

Se^t. 1.

The powet
and dury of
Istices of
Peace here-
in out of
Sessions.

Hue and
Cry.

Search.

Se^t. 2.

Arrest.

Se^t. 3.

Examine.

IN all Cases of Felonie done, whether it be greater or lesser Felonie, any one Justice of Peace may 1. cause Hue and Crie, Search and fresh Suit to be made for the Felon by all Sheriffes and other Officers and others, 1. & 2. *P. & M. c.* 13. 1. & 2. *Phil. & Mar. Cap.* 10. *Dalt. J. P. Cap.* 20.

2. Cause to be arrested and imprisoned such as are suspicious, *ib.*

3. Examine (when they are brought before them) them and the Witnesses against them, and thereby inform himself of the Fact and Circumstances thereof. 1. The Partie offending is to be examined without Oath. 2. The Partie offended, robbed, &c. and Witnesses are to be examined upon Oath. And he must ask the Partie robbed, if he know the Thief. For without Oath they are not to be given in evidence.

Of Felonie.

II

Cap. 10.

ence. 3. It is good to let them subscribe their names to the Examinations. 4. The Examination of one notable to come to the Assizes may be taken by a Justice of Peace and certified thither, 27. El. 13. *Dalt. J. P. 48.* 5. The credit of the Witnesses is to be weighed. 6. He that confesseth a Felonie may accuse others thereof, *Dalt. J. P. in Cap. 3.*

4. Within two dayes after the Examination, *Seff. 4.* put so much of the same as is material to prove the Felonie into writing. 5. Certifie it with the Certificate.

Recognizances for Bail and Prosecution to the next Goal-deliverie or Quarter Sessions, as the case is: wherein these things, 1. If it be a greater Felonie to be determined at the Goal-deliverie then it must be certified thither. 2. If

it be a Petit Larceny or other small Offence, he may binde over the Informer, and certifie the Examination to the Quarter Sessions, where the

Justices may and ought to determine it. 3. If it be a greater Felonie which they have power Certificate, here to determine, it may be certified thither also. 4. The whole Case is to be certified as well

that which may clear as that which may accuse him, *Dalt. J. P. fol. 63, 64. Cap. 3. fol. 411.* Yet it

is held that a Justice of Peace regularly is not to record [and then to certifie] the Evidence that is given against the King, *Dalt. J. P. in Cap. 113.* 5. Examinations taken by Justices of Peace in one Countie may be certified and used in another Countie, *Dalt. J. P. fol. 370.*

7. Either bail the Felon if he beailable. *Seff. 5.*

But 1. to bail a Felon there must be two Justices Bail.

of Peace *Quorum unus* present to do it. 2. Then it must be certified with the Examinations.

8. Or

Cap. 8.

Sec. 5.

Mittimus.

Sec. 7.

Binde over.

Certificate.

Commitment.

Good Behaviour.

Sec. 8.

Binde over.

Discharge.

Bail.

8. Or if not send him with a *Mittimus* Goal, *ib.*

9. Binde over the Partie abused, robbed, or Informer to prosecute effectually, and Witness that can say any thing material to the next Quarter Sessions or Goal-deliverie, (as the case is) to prosecute and give Evidence; and the Partie grieved it is best to binde to present a Bill of Indictment as well as to give Evidence.

1. This Bond must be also certified with the Examinations and Bail Bonds if there be any to the Goal-deliverie or Quarter Sessions. 2. If the Partie robbed, &c. refuse to be bound, he cannot recover of the Hundred. 3. If any material Witness refuse (being required by the Justice) to be bound to give Evidence, he may send him to Goal, or binde him to the good Behaviour. But if he can give no material Evidence *contra*, the same.

10. If the Case be Homicide *se defendens* or by an Infant or the like, or the Justice of Peace have no Evidence against the Felon, or the Witnesses be suspicious, or the like. Yet if there be a Felonie committed, and the Partie be at all suspicious, he may examine him, and shall do well to binde him over; for though the Case be never so clear for matter of Fact, yet it seems not safe for a Justice of Peace to discharge him without Bail, for happily more Evidence may come in; his best way will be therefore to get him bailed, and make the Case known to the Judges. But if the Case be clear in point of Law, as where the Felonie charged upon him is for stealing a Grey-hound, or the like, which is no Felonie, there happily the Justice

Of Felonie.

13

Cap.8.

Justice may discharge him, and not binde him
ve. The same *Dalt. 7. P. fol. 368, 367.*

11. It is doubted (however the practice be) *Sess. 9.*

that a Justice of Peace cannot justifie, upon a
re surmise, except it be where one Felon
doth accuse another before an Indictment be
und to arrest a man for Felonie, or break any
mans house to search for a Felon or stolen *Arrest. Search.*

goods. And after the Indictment it must be in
open Court, for it is in the nature of a *Capias.*

but this he may do since 1, & 2. *Ph. & M. 13.*

and 2, & 3. *Ph. & M. 10.* When any man is
charged, and the Justice hath taken Examina-

tion, he may grant his Warrant to the Con-

stable of the place to see the Kings Peace kept,

the taking and bringing of the Offender be-

fore him, and then the Partie that giveth the

information, and doth suspect, he is to arrest

the Offender, which done, he may either carry

a Justice of Peace, or Constable, or to Goal

at his choice, *Cook 4. Part of his Inst. fol. 177.*

Yet the contrary is practised, and seems ne- *Sess. 10.*

cessary at this day, for Constables are so ignorant

and fearfull that they dare not do any thing

without the Justices Warrant. Besides when the

Justice of Peace hath Information upon Oath

before him, he hath good cause to suspect, and

may proceed upon his own suspicion, *Dalt.*

P. 4. 375, 376, 407, 408. 374. And however the

officer upon the Justice of Peace Warrant is

excused.

12. The Justices of Peace cannot (out of Sess. *Sess. 11.*

ions) punish Petit Larceny by their discretion *Petit Lar-*

as some have thought) but must binde them *ceny.*

never, and they must be tried and quizz at Sessi- *Binde over.*

ons, *Sessions,*

ons, *Dalt. J.P. in Chap. 101.* What is
lonie, see in the Sessions Charge.

C H A P. IX.

*Of the Peace.*Se^{ct}. 1.

FOr the opening of this point these things must be known, 1. The Peace is a friendly and harmless behaviour toward the King and his People, which is required of
2. He that breaketh this breaketh the Peace. But most properly, he that offereth any act of injurious force is said to break the Peace.
3. All men are bound to endeavour to keep between others, and to suppress the breach of it.
4. Divers Officers have an especial Charge annexed to their Office to look to it.

Se^{ct}. 2.

The power
and duty of
the Justices
of Peace
herein out
of Sessions,
Arrest.

Committ-
ment.

The Justices of Peace have power to prevent Offences against the Peace before they are done, and to punish them after they are done. For they are to see the Peace kept, and for that purpose to see the Laws made for the preservation thereof executed, require Sureties when they fear it, pacifie such as begin to break the Peace, arrest affrayers, &c. such as break the Peace before them, or upon themselves or others, and send them to Goal, unless they give Sureties to keep the Peace, which they may require of them. And if any one be dangerously hurt in the affray send him to Prison that did it. And all this any one Justice of Peace may do. And whatsoever any other private man or Officer may do for the keeping of the Peace, a Justice

of Peace may much more do, *Dalt. J.P.4. Cap.9.*

1.42.

Any Justice of Peace that hath cause to *Se8.3.*
suspect the breach of the Peace in any place
may send his Warrant to the Officers, or others
there to take care to prevent it, *Cook 4. Part of*
his Inst. 177. 14.H 8. 16

Any one Justice of Peace may take away the *Se8.4.*
Armes, and imprison such as he seeth to be *Committ-*
riotously assembled or go armed that wear *ment,*
Coats of Mail secretly, or carry Dags or Pistols, *Armour,*
or he may enquire and prize the Armour by a
Warrant, *Cook 5. 71. Dalt. J.P. in Cap.9.* So he
may command the Armes to be taken from
such Prisoners as are taken and brought before
him, *Dalt. J.P. f.42,43.*

CHAP. X.

Of Watch and Ward.

IN this these things are to be known, 1. None *Se8.1.*
but Inhabitants of the same Town are com-
pellable to watch or ward. 2. It must be by
men of able bodies, and sufficiently armed.
3. It must be by turn or by the house according
to the custome and use of the place. 4. The
Constable *ex officio* is to order it, and he may *Constable.*
enlarge it as there is occasion, but he cannot
change the course of it at his pleasure, and
make some watch, and excuse others. 5. If any
neglect or refuse to do his dutie, the Constable
may present this default at the Assizes or Ses-
sions, or complain of it to a Justice of Peace.
And

Cap. 11. And some hold the Constable may put him in the Stocks for his Contempt. 6. This Watch is from *Ascension* to *Michaelmas*, and must be from Sun to Sun; and the Warding then, (in congruities of Reason) must be the rest of the twenty and four hours day. 7. These Watch and Ward-men are to pose all men, to arrest and secure the suspicious, and them to bring to Justice of Peace to be examined, *Dalt. J.P.Ch. 60. Winch. 13. Ed. 1. 4. 5. Ed. 3. 14.*

Sec. 2

The power and duty of Justices of Peace here in out of Sessions.

Any one Justice of Peace may set this Watch between *Ascension* and *Michaelmas* for the arresting of suspicious Persons, *Winch. 13. Ed. 1. 4. 5. Ed. 3. 14.* and he may direct the manner of it. Also he may if he see cause appoint Warding by day for the apprehending of Rogues, *Dalt. J.P.Ch. 50. Resol. of the Judges, temp. Car.* And it seems reasonable then that if Officers or others neglect it, that the Justices may require a Conformation; and if they refuse or neglect, may bind the Offenders to the good Behaviour at the least, otherwise the service will not be enforced.

CHAP. XI.

Of Night-walkers.

The power and duty of Justices of Peace here in out of Sessions. Arrest. Good Behaviour.

Any one Justice of Peace may cause such Persons, strangers or others, that are suspicious, that sleep by day, and walk by night; especially if they haunt lewd houses, or keep lewd companie, or commit out-rages; to be arrested, and force them to give Surety for their good Behaviour. *13. H. 7. 10. Dalt. I. P. Ch. 35.*

CHAP.

CHAP. XII.

Of Forcible Entrie, &c.
Unlawfull Assemblies, &c.

It is an offence by which unlawfull violence is used to Persons or Things: and this is either implied as in every *Trespass Rescous* and *Disseisin*, there is a Force implied in Law, or it is actual with Weapons number of Persons, &c. which alwayes carrieth some fearfull show or matter of terrour with it. The actual force also is either simple, when it is joyned with no other Crime, as Entrie into Lands one; or compound, when it is mixt with some other Fact, which of it self is criminal. As if any force enter into anothers Possession, and kill a man, or ravish a woman there, &c.

Seff. 1.
Force.

A forcible Entrie is a violent and actual Entrance into any lands, houses, &c. or taking of any Distress by any Person weaponed, whether he offer violence, or fear of hurt to any there, or seriously drive out any out of the Possession thereof. And sometimes it is taken for a Writ founded upon the Statute.

Seff. 2.
Forcible
Entry.

A forcible Detainer is a violent Act of Resistance by a strong hand of men weaponed with arms, or other action of fear, in the same place, or elsewhere, by which the lawfull Entrance of Justices or others is barred or hindred.

Seff. 3.
Forcible
Detainer.

The Statutes of 5.R.2.7. 15.R.2.2. 8.H.6.9. give Charge that none shall enter into any lands, but where Entrie is given them by Law, and then in a milde and a peaceable manner.

Seff. 4.
What shall
be said to be
a Forcible
Entry into,
or holding
of Lands.

Cap. 12. And that none shall enter into or hold a Possession of Lands with a strong hand, and with force. For the opening whereof we must know
 1. That one or more may commit this Offence.
 2. An Infant or a *Feme Covert*, by their own Act, may commit a Forcible Entrie or Detainer. But they cannot do it by Commandment, as another man may do.
 3. Where divers do come in a Companie to do this Act, and one of them only doth use the violence, they are all guilty. But herein we must take this difference, where divers come together in one place to do an unlawful thing, and one only doth it, and the rest stand by, and do nothing; in this Case they are all guilty as principal Doers, and the Act of one shall be said to be the Act of all. So that if divers come to enter into Lands, where their Entrie is not lawfull, and all of them but one do enter and demean themselves peaceably, and he one doth enter with Force, and after Entrie doth hold with violence; this, albeit it be against their wills, is a Forcible Entrie. And so it seemeth to be, where some of them do come without an evil intent, if they come together, or they come after, and be aiding and countenancing to the Offenders. But when divers come together to do a lawfull Act, as to distrain for Rent due, or the like; and in this Case some of them without any intent before or allowance or countenance then, by the rest, especially if they discourage it, fall to outrage, and commit this or the like Offence; in this case it seems, the rest are not guilty.
 4. A man shall not be guilty of this Offence by any commandment or command before, or agreement after,

less he be present at the Act done. 5. Though the King, or his Tenant could not be ousted of their Possession, yet this Offence may be committed in this Land, and then is punishable as in other Cases. 6. Though he get no Possession hereby, yet it may be this Offence, and punishable. 7. This Offence may be committed about Rent when one doth distrain with Force, be the Rent due or not, or when one is coming to distrain, and the Tenant doth threaten to kill, or forcibly resist him, forestall the way, or rescue the Distress, or the like: so about a Common, as when one doth forcibly keep his Cattle where he hath no Common, or forcibly resist another man that hath Common. 8. The Express Force is that which is forbidden, when it is either *multitudine*, (*i.*) a greater Company than such Persons have usually attending on them: yet one or two, if they be armed, &c. may commit this Offence. Or it is *manu forti*, (that is) with apparant violence in word, by threatening speeches, as to say, they will keep the Possession if it cost them their lives, or in sight of the other being in with him; or if he threaten to kill or hurt the bodie of him that is in, if he will not go out; or out, if he offer to come in; especially if this make them to go out, or keep off. Or deed, by turbulent behaviour, or actual violence offered to the Person of another. Or else that they be furnished with some Weapons by them not usually born, as Swords, Bucklers, Pikes, Javelins, Bills, Clubs, Pitchforkes, Staves, Halberts, Bowes and Arrows, cross-bowes, Guns, Harness, Armour, or the like: or by casting of stones, blockes, pouring

Cap. 12. of hot coales, scalding water, or lead, or with any other thing wherewith one may hurt the Person of another : and therefore if any enter thus ; though no man oppose them, this is Forcible Entrie ; much more, if being entered they there offer any violence or fear of hurt to the person of another that is in Possession within him ; and most of all if he shall furiously and forcibly expell and drive another out of the Possession, for if one enter in at the door being open peaceably, but then he doth forcibly put out them that he findes in Possession, this is Forcible Entrie. If a man have a Force laid against another house by the place, this may make him guilty of this Offence of Forcible Detainer. So if a man after his peaceable Entrie get more Weapons into the house than were there, or usually he doth bear ; or if he make use of the Weapons in the house, to defend his Possession, but the having of them there, if they were there before is not a Force punishable. 9. If any Justice of Peace come to view the Force against a house, and they refuse to let him in, this of itself is a Forcible Detainer in all Cases, though it be but by one Person, and no Weapons shewed. So if he finde any multitude of Persons, Armes, or the like. So if the Disseisor forestall the way of the Disseised with Force, that he dare not come near. But to refuse to open the doors to the other Partie is no Forcible Detainer. And if I be in Possession of a house, and another that hath more right would enter, I may keep him out with my ordinary Company and Weapons, but not otherwise for fear of the guilt of a Forcible Detainer. But if my Estate

Of Unlawfull Assemblies, &c.

21.

Cap. 12.

and Possession be lawfull, and I or my Ancestours have peaceably enjoyed it for three years together before the Indictment brought, if so my Entrie were peaceable, not forcible, and I have continued three years Possession peaceably and without force, I am in Possession by Right, and of a lawfull Estate, and not by wrong; and I have continued this Possession all these three years without interruption, and not discontinued, and my Estate is not ended; in these Cases, it seems I may keep my Possession with force, and this is no forcible Detainer, which by Plea to the Indictment will avoid Fine, Imprisonment, and Restitution.

To threaten a man, that if he come to enter he will burn his house, or spoil his Goods therein. To cut Trees upon the Land, or carry Goods out of the house after a man hath entred, the door being open, or onely latched, to enter without multitude or offensive Weapons. So by fair means to perswade or intice any bodie out of the house, or by that means to keep them out; to take a man being out of the place and imprison him, and in the mean while to send one to enter into the Land or House, or to deny to go out, and by Imprisonment keep him out; these things will not make a Forcible Entrie or Detainer: and therefore if in these Cases the other side make a Forcible Entrie upon them, they may be put out again. 10. Though the Partie ousted be dead that no restitution can be made, yet the Forcible Entrie shall be punished. 11. If one enter into a house or land with an intent to cut or carry away his Goods or Corne, &c. or the like trespass,

Cap. 12. pass, though he not put him hereby out of Possession; this will be a Forcible Entrie punishable by these Statutes, if it be *manu forti, cum multitudine*. So if any enter peaceably and after Entrie by Force do any such Act. 13. To detain a house mortgaged by force from the Mortgager is a Forcible Detainer. 14. To go over the Land with force or multitude to another place or end is not a Forcible Entrie. Nor is the Force that is used with the Warrant, and in the maintenance of the Law, any Offence within these Statutes, but lawfull. So is the Force used in the apprehending of Felons, by Sheriffes and other Officers in executing Writs and in doing their Office, in keeping the Peace in defence of my Person and House, and the like, *Dalt. Inst. P. cap. 22. 76. Poult. de Pace 3435, &c. Cook 8. 120.*

Sec. 5.

The power and cury of the Iustices of Peace herein out of Sessions.

View.

The Partie grieved by a Forcible Entrie or Detainer may be relieved, and the Offender punished divers wayes, (amongst others) by the help of the Justices of the Peace, who may do it upon the Statute of *Northampton*, which is in the nature of a Commission, wherein they proceed as Ministers onely, or by Indictment upon 8 H. 6. at the Quarter Sessions, which being found there the Partie shall be restored to his Possession by a Writ of Restitution from the Court to the Sheriff, *Dier 187 Crompt. I. P. 163*. But the most speedy and common remedie is by complaint to one or more Justices of Peace who may thereupon go to the place where the Force is, and if it be in an house he may enter and search, and if any force of Armour, or Weapon be worn or born against this Statute;

and

And if any such Offenders be found, he may Cap. 12.
commit them to Prison, and may seise, and Commit-
seise the Armour so found with them; and he ment.
ought to record all that which he shall do in this Record.
behalf, and thereout to send some Estreat into
the Exchequer that the Common-wealth may be
answered of the Armour or of the value thereof. Restitution,
But here again the Justice must not make any
Restitution to the Parrie outed, but must onely
remove the Force. And concerning the Offend-
ers so found and committed by the said Justice
of Peace: It seemeth the Justice (at his discre- Fiae.
tion) may fine them, and upon payment there-
of, or Sureties found for the same, the said
Justice may deliver the Offenders even as in
the former Statutes of 15.R.2. & 8.H.6. Or
else the said Justice may record such Force, and
commit the Offenders, and after certifie the Certificate.
Record into the Kings Bench, or to the Justices
of the Goal-deliverie, or to the General Sessions
of the Peace: or else the same Justice or Justi-
ces of the Peace may proceed otherwise: for
every Justice of Peace upon Complaint to him
made, or upon other notice to him given of any
Forcible Entrie into, or holding, or Detainer
of, Possession of any Lands, Tenements, or
other Possessions (or of any Benefices or Offices
of the Church) contrary to these Statutes, with-
out any examining, questioning, or standing
upon the Right or Title of either Partie may
and ought in convenient time (at the costs of
the Partie grieved) to do execution of the Sta-
tutes aforesaid in this manner. 1. He ought to
go to the place where such Force shall be. 2. He
may take with him sufficient power of the

- Cap. 12.** Countie or Town by his discretion, and the Sheriffe also if need be, to aid him, for the better execution of his businesse, as well for the arresting of such offenders, as also for the removing of the Force, and for the conveying of them to the next Goale. 3. Hee ought to arrest and remove all such offenders as are comming he shall see or finde continuing the Force, and may take away their Weapons, Harneſſe, and Armour, and presently cause them to be preſſed, and after to be answered to the Common-wealth as forfeited, or the value thereof. And if the doores bee ſhut, and the within the houſe ſhall deny the Juſtice to enter, it ſeemeth he may breake open the Houſe to remove the Force. But if ſuch offenders be in the houſe at the coming of the Juſtice, ſhall make no reſiſtance, nor make ſhew of any force, then the Juſtice cannot arrest or remove them except upon the enquiry a Force be found. And if the houſe or land which is holden with force, ſhall extend into two Counties, and the offenders move their force into that part of the houſe or land, which is in the other Countie, when the Juſtice doth come, he cannot remove the Force. 4. He ought to make a Record of ſuch Force by him viewed: And this Record ſhall be a ſufficient conviction of the offenders, and the parties ſhall not be allowed to traverse it. And this Record (made out of Seſſions by a particular Juſtice) the ſame Juſtice may keep by him, or hee may make it indented, & certifie the one part into the upper Bench, or he may leave it with the Clerk of the Peace, and the other part he may keep himſelf.
- View.**
- Arrest.**
- Armour.**
- Record.**
- Traverse.
Certificate.**

5. He ought to commit immediatly to the next Goale, all such persons as he shall finde and see continuing the Force at his comming to the place; the said offenders there to remain convict by his owne eye, testimony, and record, untill they have paid a Fine to the King: For this sight and view of the Force by the Justice, (being a Judge of record) maketh his record thereof (in the judgement of the Law) as strong and effectuell, as if the offenders had confessed the Force before him, and (touching the restraining of the traverse) more effectuell, than if the Force had been found by a lury upon the evidence of others. But the Force must be in the presence or view of the Iustice of the Peace, or els he can neither record it, nor yet commit the offenders: for upon force found by enquiry onely (although this presentment of the lury be a conviction of the offenders) it is thought the Iustice of Peace can neither fine nor send to Goale. But how- ever he is to remove the offenders that be present, that so he may restore the other, and may binde the offenders to their good behaviour. And if they be gone, yet he may make his warrant to take them, and send them to Goale untill they have found surerries of their good behaviour. 6. The same Iustices of Peace, or some of them that shall see the Force (as having best knowledge of the matter, and of the quantity of the offence, and having the custody of this Record) are the proper Iudges over this offence, and therefore may assesse the Fine upon every such offender. But the fine must be imposed upon every offender severally, and not upon

Cap. 12.

Commit-
ment.

Enquire.

Good beha-
viour.

Commit-
ment.

Fine.

Cap. 12. upon them joyntly. And the Iustice ought to
Estreat. Estreat the same fine, and to send the Estreat
 into the Exchequer : and that from thence the
 Sheriffe may bee commanded to levie the said
 Fine to the Common-wealths use. But upon the
 same Fine so assessed and estreated, it seemeth
 the Iustice is to deliver the offender. Also upon
 payment of the said Fine to the Iustice, or up-
 on sureties bound by recognizance for the pay-
 ment thereof, the Iustice may deliver the of-
 fenders again out of prison at his pleasure by
 some opinions. But *quere* for that the Sheriffe
 is accomptant for all Fines. Or the Iustice of
 Peace (by some opinions) may record such
 Force, and commit the offenders, and after cer-
 tifie the Record to the Iustices of Assize and
 Goale-delivery, or else to the generall Sessions
 of the Peace, and there the offenders may be
 fined. For the Statute doth not say that the
 Fine shall bee assessed by them that record the
 Force; but rather the Iustices of Peace may
 certifie or deliver the record by him made, and
 referre the Fine and further proceedings there-
 in, to the upper Bench, which is thought to bee
 the safest course. 7. Also the Iustice of Peace
Inquire. notwithstanding his owne view of the Force
 may and ought in some good Town or place
 neare where the Force was, to enquire by a suf-
 ficient Iury of the same County, to be returned
 by the Sheriffe as well of those which made
 such forcible Entry, as of those which made
 such forcible detainer, wherein these things
 must bee observed. 1. That one Iustice of
 Peace alone out of the Sessions, may make an In-
 quiry; whereas otherwise to hold a Sessions
 there

There must be two at the least, and one of them must be of the *Quorum*. 2. This Inquiry may be made whether the offenders bee present or none, at the coming of the Iustice of Peace. This Inquiry may be made albeit the Iustice of Peace go not to see the place where the force is.

This Inquiry must be made by men of good states. And therefore the Iustice of Peace is to send his Warrant to the Sheriffe, to command him in the Kings behalfe, to cause to come before him foure and twenty sufficient and indifferent persons neare about the place where the force is supposed to be; and every of them so returned, must have fourty pounds by the year at the least in Lands and Tenements. And the Sheriffe is to return Issues upon every man so summoned, the first day twenty shillings, the second day fourty shillings, and the third day fifty shillings, and at every day after double. And upon default of appearance of the Iurors, the Iustice may grant an *Alias*; and after that, *Pluries* infinite till they come. And if any Sheriffe or Bailiffe of Franchise, that hath the return of such Writ, shall be negligent, he shal forfeit twenty pound. But if such Iurors have not fourty shillings land *per annũ*, yet their presentment of such Force, is good for the Common-wealth, so as the offenders shall fine therefore. And if the Sheriffe return smaller Issues upon the Inquirers, then the Statute doth appoint, yet the parry indicted shall not impeach the Inquiry thereof; but these defaults in the Sheriffe, for not returning sufficient men, may be punished by the Iustices of Peace, who may

Warrant to
the Sheriffe.

Cap. 12. may heare and determine these offences by Bill or Indictment, wherein shall goe the whole processe as against men indicted for Trespass.

5. It is convenient upon such Inquiry, that the evidence be given openly to the Iury, to the intent it may appeare to the Iustice of Peace or Court, whether there be reasonable cause to stay Restitution, or not, after the Indictment found.

8. If upon such Inquiry, such forcible Entry, or such forcible Holding, or Detainer shall be found by the oathes of the Inquirers, then the said Iustice of Peace shall reseise the Lands and Tenements so entred upon, or holden, and thereof put the party in possession again, which in such sort was put or holden out. As touching which point these things are to be knowne.

1. Any one or more Iustices of Peace, before whom the Force is found, and not any other Iustice of Peace in or out of Sessions, Iustices of Oyer or Terminer, or Goale delivery, may in person put the party put, or kept out, in possession again, or may award him or their Precept, under his or their owne Testimony to the Sheriffe to doe it. Also the Iustices of the upper Bench, upon a Certificate by the Iustices of Peace of the Force found before them, or upon removall of the Indictment by *Certiorari*, may by warrant to the Sheriffe, not in person, award Restitution. And to doe this, the Iustice or Sheriffe may breake open any house, and take *posse Comitatus*; and if the Sheriffe return, he cannot do it for resistance, he will be amerced.

2. The Restitution must be made to him that is put out, not to his Heires, Executor, or any other, but the parties in the

Restitution.

cale

case may be fined and imprisoned. *Cook 3. part.* of his *Instit. fol. 242. 243.* 3. No Restitution shall be made, but where the forcible Entry or Detainer is first found by Inquisition, and that upon sufficient Indictment also. For if the Indictment or Inquisition be quashed for insufficiency, no Restitution can be had upon it. For this cause the Indictment must expresse, 1. A putting out *Expulerunt*. 2. The quality of the thing entred into, as Messuage, Cottage, &c. *Ergo, Intraverunt in tenementum* is void for uncertainty. 3. A keeping out, it must say *Adhuc extra tenent*. 4. It must be *Manu forti*, or *Cum multitudine*, except it be implied by reciting 8. H. 6. and conclude *Contra formam Statuti predicti*, or by some other such words. And if one be restored on an insufficient Indictment, and it bee removed into the upper Bench, the Court will cause the party to be restored. And if upon an insufficient Indictment the Iustices grant Restitution, before it bee done, the same Iustices, not others, may grant a *Superfedeas* to stay it. 4. Restitution is only where a man is put or held out of land, or the like, not out of Rent, or the like. 5. The Iustice may make Restitution notwithstanding any offer of Traverse. Yet in this case the safest way is to send the Indictment into the upper Bench.

Indictment.

Superfedeas.

In these cases a man may alledge to stay Restitution, any of these things. 1. His quiet possession for three yeares: For there shall be no Restitution awarded in case where the party indicted hath been in quiet possession by the space of three whole yeares together, next before the day of the indictment found, if his estate

Section 6.
Causes to stay Restitution.

stare

Cap. 12. state be not ended. And this the party may allege, and upon this Restitution shall be stayed by the Justice of Peace untill it be tried, if the other party will deny or traverse the same.

Certiorari.
Superse-
deas.

Superse-
deas.

Superse-
deas.

2. He may deliver to the Justice of Peace, or Court, a *Certiorari*, and this is a *Supersedeas* to them. And therefore if a man have committed such a force, and be in doubt that he shall be indicted thereof before the Justices of Peace upon the Statute 8. H. 6. and that thereupon Restitution will be awarded against him, he may have a *Certiorare* out of the upper Bench ready; and when the Bill of indictment is found, hee may presently deliver to the Justice of Peace, or Court, and this is a *Supersedeas* to them; for heretupon the indictment shall be removed unto the upper Bench. And although the Indictment be found after the *Teste* of the *Certiorari*, it is not materiall. But if a *Certiorari* come to remove an Indictment taken before a Justice of Peace in the Countrey, and the party will not sue to remove it, but doth suffer it to lye still, some think the Justice may proceed to grant Restitution. But it seemes the Justices *ex officio* are to send the Indictment away, because they are commanded so by the Writ, and this Writ is a *Supersedeas* of it self.

And after restitution made by the Justice of Peace, if the other party do remove the Indictment by a *Certiorari* of amore eigne date, then is the Indictment, the Justices of the upper Bench may award Restitution back again: for upon the matter the Justice of Peace had no power to make Restitution, for that the *Certiorari* had relation from the date: after Restitu-

tion

tion granted from the Sessions, and delivered to the Sheriff, the other Partie having a *Certiorari* delivereth it also to the Sheriff, after the Sessions the Sheriff shall not surcease thereupon, for he hath no Authoritie to allow thereof. But if the *Certiorari* were delivered to any Justice of Peace he may thereupon grant a *Superfedeas* to the Sheriff. And if Restitution were made by the Sheriff before the said *Superfedeas* came to his hand, then the other Partie shall have Restitution back again in the upper Bench upon the Indictment removed thither.

3. He may tender a Traverse: but some doubt whether he may be admitted to a Traverse before the same Justice of Peace. But this tender of Traverse (to an Indictment of a Forcible Entry) upon the Statute of 8 H. 6. is no *Superfedeas* but in discretion; so as the Justice of Peace or Court may grant or stay the Restitution at their discretion, according as the truth of the Right or Title shall appear to them. And so is the use of the upper Bench. Or else the Justices of Peace before whom the Indictment was found may after Traverse tendred certifie or deliver the Indictment into the upper Bench, and so refer the further proceeding thereof to the Justices of that Court.

But if the Partie indicted shall tender a Traverse presently, whereupon Restitution is stayed, and after he shall not pursue his Traverse with effect (but discontinueth it) and after doth tender another Traverse; upon Restitution prayed, at another time the Justice of Peace or Court shall do well to proceed to grant Restitution notwithstanding such Traverse tendred.

Cap. 13. dred. And it is the course in the upper Bench that he that rendreth the Traverse there (upon such an Indictment) shall bear all the Charges of the Triall, and not the Keepers of the Liberties; nor he at whose Suit the Indictment was found. And the same Reason seemeth upon an Indictment traversed before the Justices of Peace. 4. He may shew the insufficiencie of the Indictment for the Causes before alleadged. 5. And some have thought he may plead the insufficiencie of any of the Jurors; for not having forty shillings *per annum*. And some think that the Justices of Peace ought not to stay Restitution, save onely in case where three years quiet Possession is alleadged, or by removing the Record.

The Maiors and the Officers of Cities having Franchise have like Authoritie therein as Justices of Peace have within their Countie. 8. H. 9. cap. 9.

And if the Justices of Peace be negligent in their Offices upon these Statutes they may be punished.

C H A P. XIII.

Of an unlawfull Assembly, Rout, and a Riot.

Sett. 1.

FOR the better understanding of the Law in this (which hath some affinitie with a Forcible Entrie and Detainer) these things are to be known. That an unlawfull assembly is where

Rout and Riot.

33

Cap. 13.

Unlawfull
Assembly.

where three or more do meet to do an unlaw-
full Act against the Peace; as to beat down a
Pale, Ditch, House, or the like. Or to do a law-
full thing in an unlawfull manner; as to distrain
for his Rent with force and violence; but they
do nothing. A Rout is when they go forward
(after they are thus met) in a turbulent way to
effect, but do not finish it. A Riot is when they
do not onely begin, and go on, but finish their
work. So that in these Offences there must be
these things concurrent. 1. There must be three
or more Persons in the work, and this may be
made up of Women and Children of any discre-
tion. But this Offence may be committed though
some of the Companie stand by and do nothing,
for if they stand by and countenance it, it is as
bad as if they did it. But if they come by
chance, and intend nothing, *contra*. 2. Their
Assemblie that they go with, or their intent must
be evil, to do some hurt to men, or that which
is theirs (which in some cases will be presu-
med) As if the Lord with two or more Persons
enter on his Copy-holder with Force, and cut
and take his Corn, because he doth not pay him
his Fine, this is a Riot, and yet this Entrie law-
full. So if a man make resistance against the
Sheriff, or any other in their doing of justice.
So if two or three make a Forcible Entrie. And
this may be punished both wayes.

Rout.

Riot.

Sec. 2.

If many come together un-armed, they
know not why themselves; this is no Offence
punishable, unless it can be known, they came
to some evil intent, or they do mis-carry them-
selves in some evil Act.

If one ride or go abroad with his Servants

D

armed

Cap. 13.

armed and in Harnesse, and do no more
this is an unlawfull Assemblie, if not a Riot.
But if he intending a Riot by an Entrie
to Land, or the like, go with his ordinary Ser-
vants, who know nothing, and they do enter,
this is not a Riot in the Servants, if it be any
the Master. To go in a privie Coat of Mail
not this Offence.

And albeit one be threatened, and in danger
of his life, and to defend himself he gather
Force, and they ride about armed, this is
Riot. Yet if they did abide in his house; hap-
pily it may be justified.

But if a man do onely go abroad with his
household Servants which he hath common
in his Familie though they be more than his
abilitie to keep, this is no Offence, and if he
hap to make an affray, or do any unlawfull
thing, this will not amount to this Offence, ex-
cept it can appear they had an intent before
do it, but an Affray onely.

The Watch in *London* on Mid-summer night
Assemblies for merry meetings, as Church-ale
Dancing, and the like; wherein there is no
breach of the Peace, nor terrour to the People
are not taken to be any Offence. And if they
happen to be an Affray at such Meetings, it is not
interpreted to be this Offence. But the coming
to such a meeting with such an intent, or the
taking of sides and parts at such a time, and in
such a case, especially if after their parting they
meet again may amount to this Offence.

If a Jurie come to try an Issue, and they hap-
pen to fall out and fight; this is not this Offence
but an Affray.

The

The Sheriff and other Officers of Justice in going about with Troops and Arms do not commit this Offence.

3. The manner of their Motion and Action (if the matter be good) must be bad, as when it is turbulent, so that by their comming together they breed some apparant Disturbance, either by word, gesture, or Action; so that peaceable men are feared, or light men imboldened: for as a man may do an unlawfull thing, so as it may not be a Rior, so he may do a lawfull thing so as to make it a Rior. And therefore if a convenient number onely with convenient Tools onely meet together to abate a common Nuisance, as where a man hath erected a Wear on a common River where the People pass with their Boats, and they come to the place and make a Trench in his ground that did it, the better to do it, this is no Offence.

Seff. 3.

But if in doing this they come weaponed, or in the night, or use threatning speeches that they will do it if they die for it, or the like, this may make it a Rior. So if I claim a piece of Timber, and another hath better Right to it than I have, and I take a convenient number of Persons, and peaceably remove it, this is no Rior. *Dalt. 7. P. c. 46. 83.*

1. The Justices of Peace may proceed upon the Statute of *Northampton*, of which see *Dalt. 1. P. in Cap. 46.* 2. The Partie grieved may have a Commission out of the Chancerie to inquire of it, and of the neglect of the Justices of the Peate in punishing it. 3. Or he may have a Writ out of the Chancerie to command the Justices of Peace to execute the Statute 13. H. 4.

Seff. 4.
How such Offenders shall be punished. And the power and dury of the Justices of Peace herein out of Sessions.

- Cap. 13. 4. The ordinary Remedie is by address to the Justices of the Peace. Every one of which must do his best to prevent, and stay them in doing, for this he may and ought to do upon notice of it. 1. To go to the place, if he can conveniently, and he may take with him (especially if it be great) the *Posse Comitatus* and suppress it. 2. If he finde any of the Riotors, take and imprison them, and binde them to the good Behaviour. 3. If he cannot go, or stay when he is there himself, (they being gone for the present) he may command his Servants to go, or stay and suppress it, and to bring the Riotors before him to finde Sureties for the good Behaviour. 4. The Riot being done the Justice of Peace can neither record it, make enquirie, set Fine, award Process, or meddle with it but as a Trespass, or upon the Statute of *Northampton*, if it be a Forcible Entrie. And yet if the Justice of Peace sitting judicially see a Riot done before his face, he may record this, and command the Partie to be arrested. But if it be in another place the Partie may traverse it. 5. Every Justice of Peace is to see the Statute of 13. H. 4. executed, for though the two next Justices only are in danger of the the Fine of one hundred pounds. Yet all the rest may be punished. And in the execution of the Statute he is to do in this wise. 1. Get the assistance of the Sheriff, or any other Justice of Peace if he can. 2. Go to the place if he can. 3. If he finde any Riotors or unlawfull Assemblies commit them to Prison. 4. Compell them to give Sureties of the Peace or good Behaviour. 5. Upon refusall commit them. 6. Take away their Weapons. And further he cannot go till inquiry
- View.
- Commitment.
- Good Behaviour.
- Commitment.
- Surety of the Peace or good Behaviour.

Rout and Riot.

37

Inquiry, which must be made by two Justices of Peace. And any two Justices of Peace may doe this, and they must proceed upon the Statute of 13. H. 4. as before. Cap. 13.
Inquiry.

Onely, 1. They are to send for the Sheriffe, or his under Sheriffe, for it cannot bee done without one of them, if the Riot doth continue: for in this case he is one of the Judges. And if they come not, hee that doth come is excused. But the Inquiry after, when it is past, may bee by two Justices of Peace, without the Sheriffe, save onely as Minister. And if any Justices of Peace doe it, the two next are excused of the 100. l.

2. They must likewise as when one Justice doth it goe to the place. 3. Take, if

need be, the *Posse Comitatus*, all above fifteen yeares old. 4. Arrest the offenders, remove the Force, commit the Ryoters, and take away their weapons; and so they may doe to all that are with them, and all that they meet comming from them riotously arrayed: and if they resist, beat, wound, or kill them; but may not record a ryot done by them. 5. If the Ryotors be escaped, they cannot arrest them, or award pro-

*Posse Comi-
tatus.*
Arrest.

Force justi-
fiable.

cessie to arrest them at another time or place: but the record must be sent into the upper Bench, there to be proceeded upon; but no Traverse lieth to this, yet they may send their Warrant to bind them to their good behaviour. 6. After Arrest the Justices and Sheriffe must

Traverse.
Good Be-
haviour.

formally in the nature of an Inquisition record the Ryot in writing as the case is: For if they commit and not record, they lose 100. l. And they must take care they doe the party no wrong, for he cannot traverse it, but is remedi-

Record,

lesse.

- Cap. 13. lesse. 7. If another Riot be made upon or before them, they are to record that also. 8. They are then to send them to Goale, which the Sheriffe is to doe with the *Posse Comitatus*: and if they record and not send to Goale, they lose 100. l. 9. The same Justices, and none other, are to fine them: which fine must be of good value, that the charges may be born by it. And this fine they may either Estreat into the Exchequer, or keep the offender in prison till he pay it to the Justices, or Sheriffe. 1. H. 5. 8.
- Commitment. And this record they may certifie, if they will, to the upper Bench or Quarter Sessions, or keep by themselves. And in all this the Sheriffe must joyn with them. 10. But if the Riot be past, the two Justices must, within a moneth, at a privat Sessions, enquire by a Jury of the Riot, and being found, record it here, and end the matter, set the Fine, make out processe, commit till paiment, or upon paiment, or surety to pay, deliver the prisoner, receive and try the Traverse, and dismisse the party if they see cause. But after Traverse, the usuall course in this case is, to transmit the Record into the upper Bench, or Sessions, there to be tried. And if there be any undue practice, that the Jury will not finde it, it is to be certified by the Sheriffe and the two Justices into the upper Bench.
- Fine.
- Estreat.
- Certificate.
- Inquiry.
- Fine. Commitment.
- Traverse.
- Certificate.

About a Stollen Horse.

EVery Justice of Peace (after sale of a stollen *Seff. 1.*
Horse, and in an open Fair and Market) *About a*
within six moneths after the Felony done, *stollen*
may take and hear the claim and proof of the *Horse.*
right Owner, his Executor or Administrator, or
other appointed by him, by two sufficient Wit-
nesses upon Oath, which he may give within
fourty dayes after the claim. And he may ex-
amine the Buyer, or him that hath the Possession,
or interest thereof, what money he paid for the
same, *bona fide*, so as the right Owner paying the
same money may have his Horse again. *31. El. 12.*
2, & 3. Ph. & Mar. 7.

For the better understanding whereof,
these things are to be known. 1. General Sales
of any thing vendible in Fairs and Markets overt
are good not onely between the Parties, and
binde them, but all others that have Right
thereunto, be they Infants, *Feme Coverts*, Ide-
ots, *non compos mentis*, such as are in Prison, or
beyond Sea, such as have in their own or ano-
thers Right, as Executor, &c. But the Keepers
of the Liberties are not bound. *Cook 2. part.*
1. ff 713. But in the Sales these things are re-
quisite. 1. It must be made in a place overt and
open, as the fields or streets; therefore sale of
a Horse or beast in a Stable, back-side, or barn is
not good. 2. It must be in an apt place, that is,
the place appointed and used for Sale of such
things, as Plate in the Gold-smiths shop, Horses

Cap. 14. in the Horse-Fair; therefore sale of Plate openly in a Scriveners shop, or Horses in the Sheep Market, is not good. 3. It must be a Sale, not a Gift, without valuable consideration. 4. The Buyer must be ignorant, for if he knoweth the Seller hath at the most but a wrongfull Possession; this will not binde the right Owner. 5. There must be no Covin in the Case. And therefore if there be a Sale of purpose between two to bar him that hath Right; this will not binde him. 6. The Sale must continue, for if the wrong doer get the Goods again, him that right hath may take them from him. 7. There must be a Sale, and Contract; and therefore if it be made by one not able to contract, as an Infant, *Feine Covert, &c.* or to a man of his own Goods in these and like Cases it is not good. 8. The Contract must be wholly and originally made there, and not begun out of the Market and finished there. 9. The Sale of any thing but Horses (as afterwards) is good to alter the proprietie, though no Toll be paid. 10. It must be between Sun and Sun, and during the time of the Fair or Market. 11. If the Owner of the Goods pursue the Fellow of the Goods, and cause him to be attainted the Sale of them here by the States Officer that hath seised them is not good to conclude the Owner. And yet a Sale at any time, or in any manner is good to conclude the Parties, albeit it be not good to binde a stranger that hath Right. To alter the proprietie of a stolen Horse, Mare, Gelding, or Colt in a Fair or Market, these things must concur. 1. It must be openly ridden, led, walked, or driven, or kept standing an hour together at least, between ten

About a stolen Horse.

41

Cap. 14.

a clock and Sun-set, in the open place of the Fair or Market wherein Horses are commonly used to be sold; and not in any house, yard, or back-side, or other privie place. 2. All the Parties of the Contract present in the Fair must come together, and bring the Horse to the open place appointed for the Toll-taker or Book-keeper where the Toll is due.

3. There must be written, and entred in the Book the Names and Additions of Place, and myserie of all the Parties to the Sale, and the Seller, and (at the least) one speciall mark of the Horse sold. 4 The Toll must be paid where it is due, if not, the Buyer must give a Penny for his Entry to the Book-keeper, and all this must be done between ten a clock and Sun-set. 5. The Toll-taker, (or where more is paid) the Book-keeper, Bailiff, or chief Officer of the Fair must either take upon him the perfect knowledge of the Seller, his names, and places of dwelling, or else he must bring to him some credible Person that can so do, and that all this, and the very Price of the Horse be expressly entered in the Book. 6 He must give to the Buyer requiring it, and giving two pence for it, a note in Writing out of the Book of all this; otherwise the Sale as to him that hath Right is void.

But the Book-keepers not delivering the Book two dayes after the Fair, &c. taking Toll where none is due, or the like, will not make the Sale void. And if the Sale be in all points according to these Statutes, yet if the Owner come within six moneths after the Fellonie to a Justice of Peace near the place where the Horse was sold, and claim him, and within fourty dayes prove

Cap. 15. prove him to be his by two Witnesses and that it was stolen from him, and pay or offer the money that the Partie which hath him gave for him, to be by the same Parties Oath attested before the Justice of Peace, he shall have his Horse again.

CHAP. XV.

Of the Peace and good Behaviour, and Sureties thereof.

Seſt. 1.

Surety of the Peace and good Behaviour, what it is.

Seſt. 2.

The power and duty of Justices of Peace here.

in our of

Sessions,

and in what

cases, and

for what

causes it

may be

granted.

Peace upon

discretion

and how.

Rio: or.

Barretor.

Affray or.

Him that

doth threa-

ten.

The Suretie of the Peace is an acknowledgement of a Bond to the Keepers of the Liberties of *England*, taken by a competent Judge of Record, for the keeping of the Peace. That of the good Behaviour is for the keeping of the good Behaviour, and hath affinity with the former.

The Justice of Peace may of his own authority, motion, and discretion, or by authority from another require any man to give Suretie of the Peace in these cases following, *viz.* 1. where he doth know him to be a common Riotor or common Barretor. 2. Where he doth make an assault on the Justice of Peace himself. 3. Or upon another in his presence. 4. Where he doth see him making an Affray, or about to do it. But not after he hath done it. 5. Where in his presence he heareth one to threaten to kill or beat another or burn his house. 6. Where he seeth men contend in hot words before him. 7. Where men go or ride armed offensively, or with an unusual

number

Sureties of the Peace, &c.

43

Cap. 15.

number of Servants and Followers. 8. Where Servants and Labourers go with Weapons contrary to the Statute. 12.R.2. 9. Where he that is bound already hath broken his Bond, and he may binde him *de novo*. 1.Ed 4.40. But some of the Forfeiture must be levied first. 10. Where the Sureties of one that is already bound are sufficient. 11. Where he doth suspect any one to be inclined to break the Peace. 12. Where a Constable shall bring one before him, that doth threaten in his presence to kill, maim, or hurt another; or hath attempted the breach of the Peace before him, by drawing Weapon, assaulting, or striking; or one whom the Constable hath found quarrelling in a house, or making, or doing, that hath newly made an Affray, especially if he hath wounded another in the Affray.

Nor where I shall swear, I am in fear of him that

Sec. 2.
Vpon Request.
Quest.
Oath.

Cap. 15. that he will do my servants or cattel some harm because we are at variance. Nor where no fear is of present or future danger. But it is of mere vexation: yet if the party will take his Oath he is in dread of his life, the Iustice of Peace cannot well deny him.

If the husband doe use outrageously to beat his wife, or master his servant, and they make oath hereof, and desire the peace, the Iustice of peace may not deny it.

Sec. 1.
Good beha-
viour.
By Com-
mon Law.

1 The Iustice of Peace may of his own motion and discretion, &c. or at anothers request and *ex officio*, or upon a *Supplicavit* as a minister, as upon Articles exhibited and proved before a Master of the Chancery, he may send a Writ to the Iustice of Peace, to bind the party to the good behaviour, and they may require it of these persons following.

Evil Name. 2 One that is of evill Name and Fame, generall dangerous and suspicious, or keepeth company with such, especially if he be detected or detected in any one of these particulars 34. *Ed. 3. 1.*

Robber. 3 A Common Robber beyond the Seas, that veth idly here, one that doth lie in wait to rob or is generally suspected to be a high-way Robber, or doth attempt to rob men, and put them in fear, or is suspected to be a common pilferer 34. *Ed. 3. ch. 1. Dalt. J. P. 221.*

Cheater. 4 A common Cheater or Cousener, as one that by false letters or tokens gets money, or other things from others *Dalt. J. P. 88.*

Riotor. 5 A common Riotor.

Barretor. 6 A common Barretor, Quareller, or breaker of the Peace.

and good Behaviour.

45

Cap. 15:
Libeller.

77 A Libeller (i. e.) One that procureth, contri-
veth, or doth publish any Libell against another,
specially if it be against a Magistrate.

8 One that doth practice to poyson men, or
doth poyson Cattell, Poultry, or other Crea-
tures.

Poysoner.

9 One that is like to commit homicide, or o-
ther grievances to the bodies of the people. 34.
Ed. 3. 1.

Peace-
breaker.

10 One that hath committed a Forcible Entry, Forcible
or Detainer. Also all persons unlawfully and rio-
ciously assembled, or unlawfully wearing armour
by night or day, or otherwise affrighting the
people. *Dalt. J. P. 73, Dalton J. P. 109.*

Forcible
entry.

11 One that is a common Drunkard.

Drunkard.

12 One that is the putative Father, (that is)
hath begotten, or is suspected to have begotten
a bastard child.

Bastard.

13 One that is a common Whoremonger, or a
common Whore: One that hath committed a-
saultery or fornication.

Incontinent

14 One that doth keep or haunt, or is vehe-
mently suspected to keep or haunt a common
lawdy-house. One that keepeth a lewd woman
in his house. *Crompt. J. P. 10.*

15 One for conspiring to take away anothers life
by distorting him, and giving false evidence against
him: So 19. *Jac. in Chancery*, it was granted by
Matthew Cary, a master of the Chancery.

Conspirator

16 One that being a materiall witnesse, and
required by the Justice of Peace, doth refuse to
be bound to give evidence at the Gaol-delivery
against an offender. *Dalt. Just. P. 66.*

Witnesse.

17 One that selleth Ale contrary to the Ju-
stice of Peace order. *Dalt. I. P. 37.*

Aleseller.

Cap 15.
Contempt
of Autho-
rity.

17. One that sheweth himselfe contemptuous word or deed, to the person or authority of Justice of Peace, especially if he be in execution of his office, as to call him knave, or bid him kiss beinde, or the like, or being called before him, doth refuse to answer him, or to tell his name, *Cook 11. 105.* or being required by Justice to assist him in the doing of his Office doth refuse it.

18. One that complains of a Riot, and hath drawn the Justice of Peace to the place will follow it, but deludes him. Or charge a Riot with Felony before him, and will not give Evidence. If one be appointed by the Justice to take an Apprentice, and upon his refusal be bound to the Sessions, and there he refuse to be Resol. by the Judges *temp. Car. Reg. 7.*

Perjury.
Idle liver.

19. One that suborneth Witnesses. *15. Car. B.* or is perjured.

20. One that being an idle Person, and having nothing whereon to live, yet fareth as if he wareth well, and spendeth much in Ale houses and Taverns, if upon Examination cannot give the better account of his Life.

Messenger
of Thieves.

21. One that is a common Messenger for Thieves.

Eves-dropper.

22. One that is a common Eves-dropper. Or one that is a common Night-walker, that casteth gates and carrs into Ponds, and do other misfeats in the Night. *13. H. 7. 10. Winch. c. 4.*

Night-walker.

23. One that maketh a false Hue and Cry, or raiseth a Hue and Cry without cause.

Hue and Cry.

Watch and Ward.

24. One that refuseth to warch being duly required by the Officer. *Dalt. J. P. 173. 58.*

Abusing of an Officer.

25. One that abuseth an Officer of the Peace (the greater or less) in the execution of his Office.

and good behaviour.

47

26. One that commonly breaketh hedges, robs Orchards, or the like. *Dalt. J. P. 173.* Cap. 15.
Hedge-
breakers.

27. One that abuseth a *Supersedeas* to a wrong end, as where *A.* is bound to keep the peace against *B.* and getteth a *Supersedeas*, and then *B.* releaseth him. And after he is arrested for the surety of the peace at anothers suit, and then he sheweth this *Supersedeas*.

One that is acquitted of a Felony, if he be a Felon. person of evill name and fame.

28. All Affrayors by *Dalt. J. P. 109.* who saith, *Affrayor.* That if any Affray, Forcible Entry, or other thing be done in disturbance of the peace, in view of a Justice of Peace; after the doing, he cannot commit them for it: but he may record it, and send his Warrant to take the offender, & bind him to his good behaviour, or send him to Gaole. *Dalt. J. P. 109.*

29. Bailiffs that arrest a Minister on the sabbath day in the Church, especially if he be in the doing of divine Service, or in his going to or from Church. Disturbers
of a Mini-
ster.

30. One that hath been drunk the second time. By Statute
Law.
Drunkard.

4. *Jac. 5. 21. Jac. 7.*

31. The woman that hath had a bastard the second time. *7. Jac. 4.*

32. One that having the plague in his house, or upon him, and being commanded to keep in, refuseth to obey, is to be bound for one year.

1. *Jac. 31.*

33. One that doth wilfully disturb a Preacher in his Sermon. *1. Mar. Par. 1. ch. 3.* Disturbers
of Mini.

34. He that destroyeth a Fish-pond, or that stealeth Fish out of Ponds, or Deere out of Parkes, or killeth or hurteth Conies or Warrens, or that ponds takerh Destroyers
of Fish.

Cap. 15. taketh Hawkes, or Hawkes egges out of anothers ground, is to be bound for seven yeares. 5. *Eliz.* 21. 3. *Jac.* 12. 13.

Such as goe
not to
Church.
Disturbers
of Iustice.

35 One that doth wilfully absent himself from Church twelve moneths, 23. *Eliz.* 1.

36 One that disturbs the execution of the Statutes against Rogues, and for the setting of the poore on work. As such as put out such poore out of their parish, that ought not to be put out, 39. *Eliz.* 4. or help to convey away the putative father or mother of a Bastard childe likely to be chargeable to the Parish.

Newes.

37 One that reporteth false news against *Westm.* 1. 34. 2. *R.* 2. 5. *Young.* 22.

Felon.

38 One that is attainted for Felony, and hath his pardon, is to be bound before the Sheriffe and Coroner. 12. *Ed.* 3. 10. *Dalt.* 7. *P.* 236.

Justices of the Peace may binde a man to the good behaviour in many other cases. And this being an Act and power left much to the discretion of the Justice of Peace, and being a ready and sharp remedy, I think the Justice of Peace shall doe well, especially in these times where in offences so much abound, to make more use of it, and especially in case of wrongs, where either other remedy faileth; as for slanderings, as for such words for the speaking whereof no action lieth: for this tendeth to the breach of the peace; or the remedy is either for chargeablenesse or tediousnesse, worse than the disease, as for disobeying the Sessions orders, or Justice of Peace Warrant, as in bringing in the Kings Bench, or Marshalsey, or Mariners or maimed Souldiers money, or the like. For if a man deserve to bee bound for a contemptuous word

word or carriage to a Iustice of Peace, which concerneth none but himselfe, *a fortiori*, may he be bound for a contemptuous deed by neglect or sleight of the Warrant or Order of all the Iustices of Sessions, or of any one, or more of them out of Sessions, which may concern many, as the payment of the County money, or the like, wherein if there be no remedy but by indictment, how this will suit to the malady, wee Iustices doe know by sad experience enough. For my part therefore in these and such like cases, as I finde no remedy like to this, so I doe and shall use none more than this. See *Dalt.*

f. 29.

1. Albeit it be not usuall for one Iustice of Peace to require or take surety of the good behaviour, but to doe it at a Sessions, or at the least at a sitting of two Iustices of Peace, or more, and at the suit of divers men of credit, and upon Articles exhibited also; yet any one Iustice alone out of Sessions, and of his owne motion, or at the suit of one man, having matter proved before him to ground it upon, may doe it. But it concernes him to be cautious; for if the matter be false, the party hath no remedy for this wrong.

2. The surety of the peace is usually granted and taken by one Iustice of Peace, and that out of Sessions.

3. One Iustice of Peace may require it of another Iustice of Peace.

4. A Iustice of Peace may grant it against his own wife.

5. The disturbers of the execution of the Statute about Rogues, and the Poore, must be

E

bound

Cap. 15. bound to the good Behaviour by any two Justices of the Peace. 39. *Eliz.* 4. *Dalt.* 7. P. 154. *Dalt.* affirmeth; but the Statute is indefinite they shall forfeit five pounds, and be bound to the good Behaviour. 39. *Eliz.* 4. And so it is for him that hath the Plague, and refuseth to obey the Officers command. *Statut.* *Jac.* 31. And so it is in the Statute of 7. *Jac.* She that shall have a Bastard the second time shall be sent to the House of Correction till she put in good Sureties, for her good Behaviour not to offend so again, and this it seems must be before two Justices of the Peace.

7. The Disturbers of Preachers, stealers and destroyers of Fish, takers of Hawks and their eggs, hunters and killers of Deer and Conies in Warrens, and the like, are to be bound to the good Behaviour in the Sessions, and cannot be bound elsewhere. *Dalt.* 7. P. 234, 236.

8. The Popish Recusant, and he that comes not to Church in twelve moneths, is to be bound to the good Behaviour in the upper Bench, and not elsewhere. 23. *Eliz.* 1.

9. He that is attainted of Felony, and hath no Pardon, is to be bound to the good Behaviour before the Sheriff and Coroners, who are to return it in the Chancery. But the Judges usually take it at the time of their acquittal. *Dalt.* P. 235.

Self. 6.
Who may
demand and
have it.
And a-
gainst
whom it
may be
had.

In all other Cases, as for Drunkenness the second time, and the rest, any one Justice of Peace may require or take it.

1. It may be had for or against any Spiritual or Lay Person without distinction: but it cannot be had against any Peer of the Realm but by a Suit to the Lord Keeper.

2. The

2. The Wife may have it against the Husband or another. The Husband or another against the Wife, but the Wife must be bound by Sureties not by herself.

3. A Justice of Peace may have it against his own Wife.

4. It may be had for or against one that is attainted of Treason or Felony, or in a *Premunire*, convict of Heresie, or abjured.

5. It may be had for or against a Justice of Peace, Sheriff, Coronor, Escheators, or other Officer. And a Justice of Peace may demand it of his Fellow against another man, or another man may demand it of a Justice of Peace against his fellow Justice.

6. A drunken man may desire it, or it may be desired against him. *Dak. 7. P. 202.*

7. A dumb man may desire it. And it may be desired against a man that is dumb and not deaf. And he must be bound by others. But it cannot be had for or against one that is born dumb and deaf, or made blinde and deaf accidentally, except he have more understanding than ordinary.

8. An Infant may desire it, or it may be desired against him, if he have discretion. But he must be bound by others.

9. A Villain may have it against the Lord, or the Lord against the Villain.

10. It may be had for an Alien in amity with the State, though he be not made Denizon; but not for an Alien in enmity with the State, that is not made Denizen; nor for an Infidel, Pagan, or Jew.

11. A Lunatick may crave the Peace and have it.

Cap. 14. and a mad man that hath his *Lucida intervalla* may desire it, or it may be desired against him. But another man that is mad alwayes, or *de mente sana memoria* can neither be bound, nor demand Bond in this Case. But the Justices if they see cause, may take Surety for his safety of their own discretion.

12. It may be had against an Excommunicate person. But not for him.

13. It may be demanded and had against an impotent man, for he may procure another to break the Peace.

14. Or against a Juror at Sessions, but it is best to forbear to binde him till the Sessions be ended.

15. It may be had against any Person that may have it.

Sect. 7.

The manner of granting it.
And how it must be done.

The Warrant.

The serving of it.
Officer.

For the manner and order of granting the Peace or good Behaviour, these things are to be known. 1. It lieth in two things. 1. The Precept. 2. The Execution: wherein is 1. The serving of the Precept. 2. The taking of the Recognizance. It may be required by word against one that is present. The Justice may command the Sheriff his own, or any other indifferent man, or the Constable, to take the Party into his Custody, and if he refuse to finde Sureties, to carry him to Prison. But if the Party be absent, he must send his Warrant under his hand and Seal, or his hand at the least. 2. This Warrant must contain the Cause, and at whose Suit. See it *Dalt. 7. 121.*

In serving of the Precept, these things are to be known. 1. If it be made to two or more, one of them may execute it. 2. If it be directed to the Sheriff, any of his known under-officers

may execute it without any Warrant from the Sheriff, but so may not others. 3. And if it be directed to a Bailiff, or Servant of a Justice of Peace, or other that is no Officer they must do it themselves, and cannot command others. 4. Whosoever do it, is to do it thus. He is first to acquaint the Party with the matter before he arrest him: and desire the Party to go with him before a Justice of Peace to put in Sureties, and if he yield in reasonable time, he is to do it, and go with him and to see it done. 5. *Eliz. 4. 31.* 5. If he refuse, or delay longer than a reasonable time, he must arrest him, and carry him to Gaol: and so he may do, if when he come to the Justice if he do not put in Sureties. And this he may do without a new Warrant by the first Precept. 4. *H. 7. 9. 5.* The sworn or known Officer when he doth execute this Warrant, need not shew it though the Party arrested require it; but another man must shew it, if it be required, otherwise the Party may resist him. 7. If the Precept be to bring him before the same Justice of Peace that made it (as it may be, and must be, if it be by *Supplicavit* so required) the Officer must do so. But if it be to bring him before any Justice of Peace of the County, as usually it is, and ought to be, when it is done *ex officio*, and not by *Supplicavit*, 4. *Ed. 4. 31.* (as some say) the Officer nor the Delinquent shall have the choice to what Justice of the Peace to bring him. *Cook 5. 59. 21. H. 7. 20.* 8. If the Officer do otherwise than his duty herein, he may be fined, or false Imprisonment may be brought against him by the Party. 9. If when the Party is brought before the Justice he do not binde him, he may be

Supplicavit.

Cap. 15. punished; the Officer is discharged. 21-H. 7. 20.
Dalt. I. P. 196.

The taking
of the Re-
cognizance.

In the taking of the Recognizance, these things are to be known. 1. If he take it as Minister upon a *Supplicavit*, he must do according to the direction of the Writ. But if he take it as a Judge, he may take what Sureties, and bind for what Time, and regularly in what Summe he pleaseth, but the ordinary Summe is ten or twenty pounds. Yet a Recusant bound to the good Behaviour in the upper Bench is to be bound in two hundred pounds. 2. For the manner it must be thus made.

Seff. 8.

How it
must be
made, and
how it shall
be taken.

1. The Bond is to be *Domino Regi*. 33. H. 8. 39. Now it must be *Gustodibus Libertatum Anglia*.

2. The Condition usually is to keep the Peace or good Behaviour against all men, and especially *I. S.* till the next Sessions, and then to appear: this is the best Form. But if against all men onely, or against *I. S.* onely, it be to keep the Peace, &c. and not to appear, or say not when, or before whom to appear, or if it be to appear at another, not the next Sessions, or to keep the Peace and set down no time, or for a year, or for life, these are good. *Lamb. Inst. P.* 103, 104.

But if the Condition be to do any thing else than to keep the Peace or good Behaviour, the whole Bond is void. *Dalt. I. P.* 211. 2-H. 7. 3.

If no time be set down it shall be taken for his life that is bound.

If no time be set down when to appear, the Obligor may appear at any time, but it is safe to appear the next Sessions. If it be not set down before whom, he may appear before any Justice of Peace. *Dalt. I. P.* 211.

3. For

What must be done with the Recognizance after it is taken. Release.

Certificate.

Superfedeas

Pleading.

Appearance Discharge.

Sect. 10

3. For the disposall of the Recognizance these things are to be known. 1. The Recognizance whether taken by Writ, or *ex officio*, it must be sent to the next Sessions, to the end that the Party may be called (if the Condition be for his Appearance) and his Appearance or Default recorded. 2. If any Release be made of it, or *superfedeas*, so that it be discharged; the Recognizance must be certified with the Release, and the *superfedeas* annexed. 3. And albeit the King had, or any of the Parties had died before the Sessions, yet these things are to be certified to the Sessions. 4. Though the Recognizance be not certified, yet the Party must appear, yet if a *superfedeas* come out of the Chancery, and the Bond be ordinary; this will discharge his Appearance. If the Party be sick and not able to appear, or if he have any other sufficient excuse it is best for him to plead it. 5. If a man be bound to appear at the Assizes or Sessions, and the Recognizance be before that time removed by *Certiorari* into the Chancery or upper Bench; this will discharge his Appearance. *Dalt. 7. P. 237.*

6. The Justices of Peace at Sessions are to call the Party Conusor, and if he do appear, and the Prosecutor appear also, and he be willing to discharge the Conusor (if it be of the Peace) they do usually discharge him; but if he desire, he may be continued, and shew reason, they do continue him. If the Prosecutor do not appear, they do usually binde him over two or three Sessions. If the Condition be general against all men, and not against any Person in particular; they do usually make Proclamation, and then

discharge

Cap. 15. discharge them. *Lamb. I. P. 109. Dalt. 7. P. 210.* If he were bound by the Justice of Peace at discretion, he may at his discretion discharge him unless any Law do limit him how long he shall stand bound. 7. Where the Justice hath taken Bond, either *ex officio* or otherwise, he is to give him a *superfedeas* against all other Justices, so that he be no farther troubled. *Dalt. I. P. 206, 236.*

Superfedeas

§ 28. 11. What shall be said to be a breach of the peace or good behaviour. And cause of Forfeiture of the Recognizance, or not. For the Peace.

1. To do any such as before, for which the Surety of the Peace or good Behaviour may be granted, as maliciously to threaten to kill, beat or imprison another, especially the Party whose Suit it is granted, is a cause of the breach of the Peace, and Forfeiture of the Bond. *Peace of the Peace, Lamb. I. P. 114. 33. H. 6. 18. 12. E. 35.* 2. To do such an Act, or procure such an Act to be done, which is a Breach of the Peace, as to do Felony against the Person, beat another, imprison, strike, or assault him, by offering some hurtfull act or thing, or some feasting speech, or thrust him maliciously into the water. *Lamb. I. P. 126, 127.* Or make a Riotous Assembly, send a Challenge to fight. 7. *H. 4. 34.* Or offer to another any injurious or violent handling by mis-intreatings of the Person of another. To make an Affray, which may be either by going with unusuall Armour or Weapons to the *terrorem Populi*, or by a mutuall Quarrell, or going together by the Ears of many together. *Lamb. I. P. 127.* All these things are Breaches of the Peace.

But for a Master to correct his Servant or Scholar moderately, Parent his Childe, God his Prisoner, or the like. *Dalt. 7. P. 220.* nor for any man that doth any Act in the Execution of Justice

Justice

Justice is no cause of Forfeiture of such a Bond, nor the defensive beating of another to save himself or his. *Lamb. I. P. 127.* So the Lord his Villain. 33. *H. 8. cap. 12.* So a Friend may beat his mad Friend for reclaiming of him. *Stam. fol. 13, 14, 15.* 14. *H. 7. 8.* Nor to take away another mans Goods or Ward wrongfully, or do Trespass in his Lands or Goods, or to disseise him of his Land, for all these things are justifiable. *Lamb. I. P. 128, 129.*

To do any such Act for which the Surety of the good Behaviour may be granted is cause of Forfeiture of this Recognizance. As 1. Whatsoever will cause a Forfeiture of a Recognizance of the Peace will cause a Forfeiture of this Bond. 2. So to say or do any thing that may stir up the Breach of the Peace. 3. To go with an extraordinary number of men attending him, or the like. *Lamb. I. P. 116.* 4. To go or ride armed extraordinarily that it breeds fear in the People. 5. If the binding be for an Offence against the Statute, if he shall again offend against that Statute. *Dalt. I. P. 236. Lamb. I. P. 121.* 6. To be drunken by Sir *Nicholas Hide.* *Dalt. I. P. 236.* 7. A Recusant bound in the upper Bench, if he come not to Church in twelve moneths, forfeits his Recognizance. *Dalt. I. P. 163. Lamb. I. P. 114.* 8. To challenge, or send a man a Challenge to fight with him, to threaten to beat or wound him, or any such like thing which tends immediately to the Breach of the Peace is cause of Forfeiture of a Recognizance of the good Behaviour. But scandalous words, especially if they be not actionable, as to say, Thou art a Pelter, Lier, Drunkard, Knave, or the like; nor ordi-

Cap. 15. ordinary trespasses done to mens lands, goods, or chattels, make not a breach of the good behaviour. *Cook 4 part of his Inst. f. 181.*

Seff. 12.

What shall be said to a discharge of such delinquent, or not.

Before bond given.

Release

After the bond.

Touching the discharge of the party prosecuted in this case, these things are to be known:

1. The proper place of discharging before or after Bond given, is the Assizes, or Sessions. *Duk. 216.*

2. It may in a due manner be released by the party craving it before or after the breach of the condition.

3. The death of the King it seemeth, did discharge it. But the release, or death of the party craving it, will not discharge the party when he is in prison. It is doubted by some, whether the surety of the good behaviour (taken upon complaint) may be released by any special person, as that of the Peace may be. But others think that it may be released by either the party himselfe, upon whose complaint it was taken, or by the Justice of Peace at discretion. *Duk. J.P. 236. Lamb. J.P. 126.* See old Book of Entries, f. 415, 416.

4. If he doe performe the condition of the Bond, Keep the Peace, &c. and appeare at the time, which he must doe, though the prosecutor doe not follow it. A Justice that bindes of his own discretion onely till a day, may discharge of his own discretion before the day, so it be before the Recognizance be forfeited. *Poulton de pace. 19.*

5. If a man be bound for his life, no release of the King, Justice, or Party, can release him. *21. Ed. 4. 40.*

6. If the bond be to keep the peace against

A.

or against all men, especially against *A.* before the Recognizance is broken, *A.* may release before a Justice of Peace, otherwise not. *amb. L.P. 110.* And if the party at whose suit it is, die before it be broken, where he is bound to keep it against him, this will discharge it. *21 d. 4. 4.*

7. Before the forfeiture the King could not release it. And after the forfeiture none but he could do it. *11. H. 7. 12. 1. H. 7. 10.*

By the death or resignation of the King, or the party principall himself bound to keep the peace before the bond was broken, it was discharged, but not by the death of the Maynperors. *1. H. 7. 3. Dalh. J.P. 118, 119.*

CHAP. XVI.

Of Ale-houses.

For the better understanding of the lawes *Sec. 1.* concerning Ale-houses, &c. these things are to be known: 1. That none may keep any common Ale-house, or common Victuall-ing-house, or use commonly to sell Ale, Beere, Elder, or Perry, that is not licensed in open Sessions, or by two Justices of the Peace, *Quorum unus. 5. & 6. Ed. 6. 25.* 2. That Taverners, keeping victualling, Inkeepers and Victuallers, are within the Statutes as well as Ale-house keepers; so that if they offend by suffering tippling
Who must take licences.
Taverners.
Inholders.

Cap. 16. ling, or selling lesse for a peny, or two pence than the Statute appoints, they are to be punished as Ale-house keepers are. And they are to be bound for keeping of good order, as well as Ale-house keepers. And the Iustices of Peace may require them to take Licences, and enter into recognizance to keep good order, or else commit them. And all those Innes which were erected since 5. *Ed. 6.* and not Innes before must have Licences, and be bound as well as others. *Crom. I. P. 77. Dalt. I. P. ch. 7. f. 37. 1. Car. 4. 3.*

The Iustices when they licence Ale-selling to a man, must take bond and surety of him against the using of unlawfull games, and for the keeping of good order, which they must certify at the next Quarter Sessions, *sub pena 3. l. 6. s. 8. d.*

4. When they commit any man 3 dayes for selling without Licence, they must ere they deliver him, take bond with two Sureties, that he shall not offend again. And this recognizance, discharge, and offence, they must certify at the next Quarter Sessions. And this Certificate will be a sufficient conviction in law to make him liable to the twenty shillings fine upon 5. *Ed. 6. 25.*

5. If two Iustices of the Peace discharge an Ale-house keeper of selling of Ale, and two others after out of Sessions, allow him again, it seemes the first two may commit him. So if he be convicted of any of the offences in the Statutes, by which he is disabled, and is or is not suppressed for it; if he be licensed within 3 yeares after, the Licence is void, and he to be punished as one unlicensed. And he that is convict for selling lesse than the Assise, for suffering tipling, or that doth ripple

Committment.

Recognizances.

Of Ale-houses.

61

Cap. 16.

or is drunk, is disabled to sell again for 3. years, and being put down by two Iustices, he cannot be licensed but in open Sessions. *Dalt. I.P. ch. 7.*

1. *Iac. 9. 4. Iac. 5. 21. Iac. 7.* 6. If a woman that hath a husband, sell against her husbands will, they may be both punished, his purse, and she, if the Iustices think fit, may be imprisoned till she finde Sureties for the good behaviour, and that she will not sell again. *Dalt. I. P. in ch. 7.*

7. He that is not licensed, may be punished by 5. *Ed. 6. 25.* or by 3. *Car. 3.* But he cannot be punished upon both: and yet he that is unlicensed may be punished for suffering ripling, or breaking the Assise, as those that are licensed may be. *Dalt. I.P. in ch. 7.* 8. The Traveller,

Fine cover
Good beha-
viour. 1

and other necessarily accompanying him, and invited by him during his necessary abode in the Ale-house, Handicraftsmen, Workmen, and Labourers, that are there for an houre at dinner time, and such as doe sojourn and lodge there, and such as are licensed by two Iustices of the Peace, are not to be accounted Tiplers within the Statute. But all other men living in the same place, or else-where, except the stranger himselfe, are to be accounted Tiplers. *Dalt. I.P.*

Tipling. 2

in ch. 7. 1. Car. 4. Iac. 5. 1 Iac. 9. 9. Brewers may not sell more Ale or Beere to unlicensed Ale-house keepers, than what will serve for their own use. 4. *Iac. 4.* 10. Selling of Ale at Faires is not against the Statute, 5. *Ed. 6. 25.* 3. *Car. 3.* All the forfeiture of all these offences upon 5. & 6. *Ed. 6. 4. Iac. 7. 3. Car. 3. 21. Iac. 9.* are given to the poore of the place where the offence is done: and so is the one halfe upon the Statute, 4. *Iac. 4.* and must be delivered to the

the

Cap. 16. the Church-wardens who must account for
 12. It is held fit to heare the parties offended
 in these cases, before the forfeitures be levied
 in, *Dalt. 1. P. ch. 7.* 13. If any Ale-house-keeper
 shall be lawfully convicted of any offence
 against any breach of *1. Jac. 9. & 4. Jac.*
 That hee for the space of three yeares after
 after the conviction, be utterly disabled to
 keep any such Ale-house. *7. Jac. 10.*

Sec. 2. There must bee two Justices of the Peace
Quorum unus, to licence a man to keep a com-
 mon Ale-house, and to take a Recognizance of
 him for his keeping of good order, which they
 may doe according to their discretion. And
 there must be two Justices to remove, discharge
 and put down an Ale-house where they thinke
 meet, and so commit to prison without Bail
 such as use to sell Ale without licence, or con-
 trary to the command of two such Justices of
 the Peace, upon *5. Ed. 6. 26.* And to take a Re-
 cognizance of him that he shall not sell againe
 and to certifie the offence and the Recogni-
 zance at the next Quarter Sessions, where he is
 to be fined twenty shillings. And there must be
 two to licence Labourers to remain in an Ale-
 house, &c. But any one Justice of Peace upon
 oath of two witnesses, or confession of him dur-
 doth of his own head without Licence, keep a
 common Ale-house, or Tipling house, or use
 commonly Ale-selling, may make his Warrant
 to the Constables or Churchwardens of the
 place where the offence is done, to levy twenty
 shillings by distresse and aprehension, & sale of
 goods, after three dayes, returning the over-
 plus; and for want of distresse, or non-payment

The power
 and duty of
 a Justice of
 peace herein
 out of Sessi-
 ons.
 Selling
 without
 licence

Warrant.

Of Ale-houses.

63

in six dayes, to whip, or cause him to be openly whipped, and to commit the officer neglecting his duty, to prison, till he doe it, or pay forty shillings. So also any one Justice for the second offence herein, may send the Ale-seller to the house of Correction a moneth; and for the third, may send him thither untill he be from thence delivered by order from the Quarter Sessions. 3. Car. 3.

Cap. 16.
Bridewell.

Also any one Justice of Peace upon his own very oath of one witness, confession of the party, or upon his oath after his confession against him that shall suffer any person forbidden by the Statute, to remain tipling in his house, may

Suffer tipling.

convict him; which done, the Constables or Churchwardens of the place where the offence is done, may *ex officio* without any Warrant from any Justice of Peace, levy ten shillings by distress & sale of goods, returning the overplus.

Constables.
Church-wardens.

And for want of distresse the Justice of Peace may send the offender to Gaol till he pay it. So

Commio-ment.

he upon the confession of the party, or oath of one witness against the Inkeeper, &c. that he doth sell lesse than a quart of the best for a penny, or two quarts of the small for a penny, may

Selling under measure

convict him for the twenty shillings forfeiture; done, he must be proceeded against as in the last. And if in these two last cases the officer do not levie the money, or within twenty dayes certifie the want of distresse to the Justice, hee may send his Warrant to some other under hand and seal, to levie forty shillings of the officers goods by distresse and sale after six dayes, returning the over-plus. And for want of distresse he may send the offender to Gaole till

Certificats.

pay-

Cap. 16. payment bee made of the fourty shillings, 1. *Iac. 9.*

Tipling.

Any one Justice of Peace may also upon his own view, oath of one witnesse, confession of the party, or upō his oath after his cōfession against him that shall be in any Inne or Ale-house tipling, and is forbidden by the Statute, may in case it be not paid within a week after conviction, to the Churchwardens of the place where the offence is done, make his Warrant to the Constable, or other inferior officer of that place, to levie three shillings four pence of goods, and if he be unable to pay it, to put him in the stocks foure houres; which if the officer doth neglect to doe, the Justice may send his Warrant to some other to levie by way of distresse, ten shillings of his goods that is the officer.

**Stockes.
Warrant.**

Drunkenness

So also any one Justice on his owne view, oath of one witnesse, confession of the party, or upon his oath that hath confessed it, against him that shall be drunk, may levie the five shillings forfeiture in the same order, as in the last for Tipling. And if he be unable, to put him in the stocks six houres: the Officers neglect to be punished as before, 4 *Iac. 4.* It seemes also that one Justice may for the second offence, bind the offender to the good behaviour, 4. *Iac. 5. 21 Iac. 7.*

**Good behav
viar**

CHAP.

CHAP. XVII.

Of Bastardy.

For the better understanding of the Law herein; these things are to bee knowne :

1. That any Iustice of Peace of the County, as well as the next and nearest to the places, may take order for the security of the parish, &c. 3. Car. 4. 2. Iustices of the Peace are not to meddle to make order for the securing of the Parish when the childe is dead ; or if it be living, but upon complaint of some of the Parish. But they are to see the offenders punished for their incontinency. 3. The order for the keeping of the child must be first made by two Iustices of Peace, and therefore the Sessions do alwayes referre it first of all to the two next Iustices of Peace. 4. If the two Iustices of Peace cannot agree upon the order, it must be referred to the Sessions Order. 5. The mother may bee examined upon oath touching the reputed father. 6. Where the parties doe marry together before any order made, the Iustices of Peace doe not use to intermeddle ; yet here it seemes the parties may be punished for their incontinency. *Sed quere bien, Marrimonium subsequens tollit peccatum precedens* 7. If the parents doe not appeale to the Sessions, nor obey the order of the two Iustices of Peace under their hands, upon notice they are to be committed to Gaole till they do, or put in surety to doe it, or else to appeare at the next Quarter Sessions, and stand to the order of the Iustices of the

Marriage.

Commitment.

Cap. 17. the peace there, if they make any, or else to the first order of the two Justices of peace under their hands. 8 If the order of the two Justices be revoked, it must be done at the very next Quarter Sessions, otherwise the first order will stand. And therefore if the Justices at the next Sessions, affirms the order, the Justice at any Sessions after cannot avoid it, *Et sic e converso. Hill. 9. Jac. B.R.* 9 The woman is not to be punished with any corporall punishment, till she be delivered and recovered. And then for the first offence she is to be sent to the house of Correction for a year; and for the second she is to be sent thither untill she can put in sureties for her good behaviour, and not to offend again. And then it seems she is not to be punished with any corporall punishment, upon 18. *Eliz.* 10. The child is not to be sent with the mother to the house of Correction, unless it suck. 11. If the childe be born eleven dayes after the forty weeks after the death of the father, it is not lawfull; So if it be born after the 40 weeks after the time the woman charged the man to have known her, it shall not be accounted his childe.

Self. 2.
The power and duty of the Justices of peace out of Sessions herein.

Any one Justice of Peace may binde to the good behaviour the putative Father of a Bastard child like to be chargeable to the Parish before or after the birth of the childe, *Dalt. 1. P. in ch. 11.* So also may one Justice of Peace before or after the birth of the child, bind over to the good behaviour and next Gaole delivery, or Quarter Sessions, such as shall have, any hand in the sending or conveying away of the putative father or mother, whereby the child is left

Of the Poor and Rogues.

97

to the charge of a Parish. 18. Eliz. 3. 7. Jac. 4. Cap. 18.
But there must be two Justices of Peace *Quorum unus* to take order for the relief of the Bastard, ease and safety of the Parish, corporal punishment of the Mother, and reputed Father, to commit them till they obey the Order, if they make no Appeal to Sessions, and if they do, to binde them to appear there, and they obey the Order of the Sessions, and to send the Woman to the House of Correction, for no one Justice of Peace may do either of these things. 18. Eliz. 3. 7. Jac. 4. Stat. J. P. cap. 11.

Order.
Commitment.
Binde over.

C H A P. XVIII.

Of the Poor and Rogues.

FOr the opening of the Justices of Peace Office about the Poor, it is necessary we premise something of the Over-seers of the Poor, and their Office; touching which, take these things: 1. The Over-seers of the Poor are certain Officers appointed yearly to be joyned and assistant to the Church-wardens of the Parish in the over-sight and ordering of the Poor of the Parish; and they are to be chosen and made by two or more of the Justices of the Peace of the County (whereof one of them must be of the *Quorum*) dwelling in or near the Parish or Division, &c. who are yearly under their Hands and Seals at *Easter*, or within a moneth after to appoint four, three, or two substantial Householdiers (according to the greatness

Seff. 1.

Seff. 2.
Over-seers
of the poor
and their
office.

Cap. 18. of the Parish) to be joyned with the Church-wardens of the Parish, and all these together are to look to the Poor of the Parish.

2. And in this Office the Church-wardens of the place have an equal Authority and Charge with the Over-seers of the Poor; and therefore howsoever it be the common course in most places with the Church-wardens to neglect it altogether, and not to meddle at all with it, yet this is a common neglect punishable upon the Church-wardens, and fit to be redressed. But if there be but one Church-warden within the Parish, this doth suffice, and the Over-seers and he together may execute the Office well enough.

3. The major part of them without the rest may do any thing belonging to their Office.

4. They must have the consent of two Justices, *Quorum unus* either in particular or in general, to every thing they do in their Office. *Dalt. I. P. cap. 40.* And yet it seems they may set up and exercise a Trade by the consent of one Justice, where there are not two Justices within the Limits. 3. *Car. 4.*

3. 2. 2.
Is setting
the poor to
work.

5. The Office of all these men lieth in these things. 1. In general they are to take order with the consent of two Justices of the place, to set their Poor a work, and if need be, for that purpose to set up a Trade, place out Apprentices, relieve the impotent and such as cannot work, or cannot live by their work. But more particularly: 2. They with the consent of two or more Justices may set up and use any Trade, onely for the setting a work, and relief of the Poor of their own Parish without Breach of any Statute. 3. They are to set to work the Children

of

of such whose Parents shall not by them be thought able to keep and maintain their Children, and such Persons married and unmarried at having no means to maintain themselves, use no ordinary and dayly Trade of Life to get their Living by ; and all those that cannot get work elsewhere. And if any Person so appointed by them to work shall refuse so to do, or any others that are able, if they refuse to work for the Wages assaied, he may be sent by any Justice of Peace to the common Goal or House of Correction, not to their place of Birth or last dwelling.

House of
Correction

Sec. 4.
In binding
Appren-
tices.

4. They or the more part of them with the consent of the Justices, as aforesaid, may and ought to binde forth and place to be Apprentices the Children of such whose Parents shall be by them or the greater part of them thought to be unable to keep and maintain their Children, but they may not binde any other mens Children so ; and they unto whom they are so bound may and must receive them, and keep them as Apprentices ; in which particular these things must be marked. 1. They may binde them to be Weavers, Masons, or any such like Trade, or they may binde them to Husbandry or Huswifery. 2. It is said they may binde any above seven, and under thirteen years ; and the man-childe may be bound untill he be of the age of twenty four years, and the woman-childe untill she come to the age of twenty one years, or be married. 3. They with the Justices of Peace may compell any man they think fit to take such a poor childe of the same Parish to be his Apprentice, and that without any money at

Cap. 18.

all: howbeit in this Case it is meet some respect should be had; for if the Childe be young, and the Party to whom they would place him not very able they may give money if they will, and it is fit that some money be given as the Overseers and the Party can agree; and if they cannot agree, as the next Justices of Peace, or as the Justices of Peace at the Sessions shall see down. *Resol. of the Judges.* 4. All men that have or may have use for Servants, are bound to receive such Apprentices themselves or contribute towards the placing of them with others. And albeit a man be not a Trades-man, but a Knight, Gentleman, Clergy-man, or Yeoman; and albeit he do not keep house but be a Sojourner, if he use Husbandry, Clothing, Grasping, or the like; or howsoever his Case be, if by his Calling and Profession he must entertain and use Servants of like quality, he may be compelled to take such an Apprentice. *Resol. of the Judges.* 5. If a wealthy man live so privately that he keep few or no Servants, and leadeth such a life that he hath no need of such a Servant, yet he may be compelled to take such an Apprentice himself, or to give money towards the placing of him with some other. And this notwithstanding they must bear the ordinary Rates to the Poor. *Resol. of the Judges.* 6. If there be not Masters enough within the same Parish to entertain the poor Children there; the Justices of the Peace may compell them of other parishes within the same Hundred to take them; and if there be not enough within the Hundred, the Justices of the Peace at the Sessions may compell them of any Parishes within the County to take

them

Of the Poor and Rogues.

71.

Cap. 18.

them. *Resol. of the Judges.* 7. They may be bound to a man in regard of his ability, or in regard of his Farm, and in the last Case it seems reasonable that he go with the Farm. *Dals. J. P. pag. 115.* 8. This binding must be by Indenture. 9. The Indentures made by the Justices, Churchwardens, and Over-seers in this case, and the binding by them are as effectual to all purposes, as if the Children were of full Age, and by Indenture of Covenant did binde themselves. 10. All such as are so bound according to 43. *Eliz.* may be safely received as Apprentices. 11. If any man refuse to accept of an Apprentice being thus placed to him, he is by the Justices of the Peace to be bound to appear at the next Sessions or Goal-delivery; and if he refuse so to do, he is to be sent to the Gaol, till he do so; and if he be bound to appear at the Sessions, and do so, and then refuse (without a sufficient Excuse to be allowed by the Justices of Peace) then he is by the Justices of Peace to be bound to the good Behaviour; or if he refuse so to do, to be imprisoned till he do so, and withall he may be indicted and fined for his Contempt. 12. If a speciall Rate be set on a man, to help binde Apprentices, it may be levied as other Rates, *Resol. of the Judges.* 13. If the Parents of such poor Children refuse to suffer their Children to be bound Apprentices, or intice them away being bound, the Parents themselves may be sent to the House of Correction. 5. The next main part of their Duty is, to give relief, provide Houses, and help them that are poor, and not able to live by their Work. For this we must know that there are three sorts of Poor.

Good Behaviour.

Señ. 5.
In relieving the poor, and what poor they are to re-

Cap. 18.

1. Such as are poor by impotency, as 1. The aged, decrepit Persons, that are past labour. 2. The Infant, fatherless, and motherless, not able to work. 3. The person naturally disabled in wit, or member; as the Idiot, Lunatick, blind, lame, &c. 4. The person visited with sickness, who thereby for the time is impotent. All these being impotent and not able to work, are to be found and provided for by the Over-seers of necessary relief.

2. Such as are so by casualty, as 1. He that is casually maimed in his Calling; as the Souldier, Labourer, &c. 2. The Person that is decayed by fire, water, robbery, suretiship, &c. 3. The poor man over-charged with Children. All these, and such like, having no sufficient means to maintain themselves, are to be holden, and set on work by the Over-seers, and being not able to live by their Work are further in charity to be relieved in some reasonable proportion according to their wants.

3. The thriftless poor, as 1. The riotous and prodigall person, that spendeth at plays, drinking, &c. 2. The dissolute person, as Strumpet, Pilferer, &c. 3. The slothfull person that doth refuse to work, or doth wilfully spoil or embezzle his Work. 4. The Vagabond, that will abide in no service or place. 5. Such as will work, but not for the Wages taxed or usually given. And for all these latter sort, the House of Correction or common Goal is the fittest place; and to the House of Correction is he to be sent, not to his place of Birth, that will not work at the Wages assessed or usually given, but if they have able Bodies, they are compelled to labour, for

for the Rule of Christ is, That such as *will not labor must not eat.* 2 *Theff.* 3. 10. And yet if these prove unable to work, then it seems they must have Relief from the Parish as well as others.

2. They are not to take care for Houses or other Relief for such as are able to work, and have or may have work; nor yet for their Children, for they are by their Work to maintain them also, but if such be over-burdened with Children, it will be good for the Over-seers to place some of their Children Apprentices; and if these cannot have Work, the Over-seers must procure them Work, for none may beg in the High-ways within or without their own Parish, nor at any mans doors without their Parish, nor at any mans doors within the Parish, without order of the Overseers of the Poor.

3. Nor are they to take care of such as are able to live. And therefore if any such person travell through a Parish with Children, and the Father die and leave them; in this Case the Parish is not bound but in charity to relieve them.

4. They are not to take care to relieve Rogues, for they are to be sent away.

5. They must take care for such Poor as have Parents, or Grand-parents, Children, or Grand-children able to relieve them, as well as others, till they can be forced to help them.

6. They must take care for all such as are lawfully sent to and settled amongst them, if they prove impotent. But by the way as to the point of settling, these Rules and Cases following are to be known.

Sec. 6.
Settling of
poor, and
where they
shall be
settled.

1. He that is a Native, Householder, Sojourner, Apprentice or Servant within a Parish, and doth live

Cap. 18. live there in peace but three weeks or a month together, is said to be settled there: but he that passeth through a Town onely, or is in another mans house as an Innmate two or three dayes together, or lieth in an out-house or Barn for a longer time, having no house to dwell in; or a Childe at nurse there, or a Scholar at School there; or in the place being an University; or as a Traveller in an Inn there, is not said to be settled there by this. And therefore if any impotency happen to any such, the place shall not be charged, but they shall be sent to the place where they or their Parents are settled, or where the Children were settled. *Resol. of the Judges.*

2. If a person be once duly settled in a Parish, he may not be after removed, but there he must be relieved, or set a work, as his Case is: for no man is to be put out of the Town where he dwelleth, nor to be sent to his place of Birth, or last habitation, but a vagrant Rogue. And therefore they that have houses or services in Parishes, when their Estates or services are ended, are to get new houses or services, and work if they be able, for in this Case the Parish is not to provide for them. But if they be impotent, they must be there relieved; for they may not in these Cases be sent to their places of Birth, or last dwelling. And yet it is said in these Cases, If any of these persons shall be taken begging abroad out of the same Parish, that in this case such person may be sent from the place where they are taken begging as a Vagabond, to the place of his Birth. *Resol. of the Judges.* But if he go of his owne accord into that Parish, and do not beg there, they cannot send him back for

Of the Poor and Rogues.

75

Cap. 18.

for none but a Rogue can be sent back to any place from whence he came. *Pasch. 7. Car. B. R. per Chief Justice.*

3. For further opening this matter, take these Rules

1. The Law unsettled none who are lawfully settled.

2. None may be settled by practice.

3. None can be said to be settled in that place where he is in no quiet, but continually interrupted by Complaints to Justices of Peace their Warrants or other Disturbances of the Parishioners or Over-seers of the Poor.

4. No settlement can be made by Composition and Agreement.

5. No settlement can be made by an illegal Remove.

6. Nor can any settlement be by any means being in a Parish obscurely, and in a skulking way, that the Parish cannot take notice of him.

4. For the opening and illustrating of these Rules, take these Examples and Cases.

1. If a Rogue be taken at A. and he will not confess, nor can they finde the place of his Birth, but he saith that his last Habitation was at B, whereupon he is whipped and sent to B, and there he confesseth the place of his Birth to be at C, in this Case without any new Vagraney, they of B, may send him to C. *Resol. of the Judges.* 2. If one that hath a Family take a house in a Parish for one year, and before the end of the year he is forced out of the Possession of it, and then goeth into another Parish, and take part of a house, and is there as an In-

mate

Cap. 18. mate but one, two, or three dayes; he is put out from thence, and then for want of a house lieth in a Barn in a third Parish, and there the Husband is sick, and Wife delivered of a Child: now in this Case they shall be sent to, and settled in the first Parish where his house is, and from whence he was lawfully removed, for none may be so forced to turn Vagrants. *Resol. of the Judges.*

3. A Souldier maimed in the late Wars before May 1647, must be settled in the place where he was settled when he took up Arms. *Ord. May 1647.*

Servants
and Appren-
tices.

4. If an Apprentice or a Servant go out of that condition, he cannot be thrust out of the place, but must continue there, and be disposed of, as his Case requires. And if the Master of an Apprentice die before or within the time, his Executors or Administratours must provide for him (if they be able) otherwise; and howsoever if the Apprentice become impotent, the Parish must do it; and so it is, if he be placed by the Church-wardens. *Resol. of the Judges.* And if a Servant be got with childe, and then goeth out of her Masters service before or after it appears she is with childe, and the reputed Father is run away or poor, in this case not the Master but the Parish shall be charged. *Resol. of the Judges.*

Wife and
children.

5. The Wife regularly is to go with the Husband albeit he be a Servant. *Resol. of the Judges.* And if a Husband and Wife be roguing, and they have a house in another Parish, though as an Innmate they may be sent thither. *Resol. of the Judges.* And generally Children under seven

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seven years old, and Vagrants must be sent to and settled with the Father or Mother, or Mothers Husband; and if he be dead, the Mother where she was born, or last dwelt the space of a year. And being thus settled they must there remain, and not be sent away from thence to their place of Birth; though after their Parents die or run away, or the Children be above seven years old, or do turn Vagrant in that Town; for they must be there be set on work. *Resol. of the Judges.* If a Woman have a Bastard, and then take a Husband, it is said, He is not bound to maintain this Childe, unless he have a sufficient Estate by his Wife to do it. *10. Car.* So held by the Sessions in the County of *Wilts.* And if a Rogue whose last place, or place of Birth cannot be known, have a Wife and Children under seven years old, they must go with the Husband to the place through which they were last wilfully suffered to pass without punishment, where the Children are to be maintained by their Fathers Work, though they be sent to the House of Correction. *Dalt. J. P. 14.* If one hire a house in *A.* or have no house in *A.* and live there with his Wife and Children, and binde himself to serve one in *B.* in this Case the Wife and Children must remain in *A.* but if he hire a house in *B.* then they must be all in *B.* And Children whose Parents are dead are not to be sent to their place of Birth, &c. if they be like to be a charge, for the Parents not being Rogues, the Children cannot be Rogues, unless they wander or beg; in this Case therefore they must be maintained at the charge of the Parish where the Father died. But if a travelling Woman that hath a Childe

Cap. 18. childe sucking on her, be sent to goal, and then hanged for felony, the childe shall not be charged on the Parish where shee is hanged, but shall be sent to, and settled in the place where she was born, if it can bee found, otherwise in the place where she was taken.

Bastards,

The Bastard child, the Mother or reputed Father being not able to maintaine it, must be with the mother so long as it is in the condition of a nursing childe, and then it must be sent to the place of his birth. And if one be delivered of a Bastard childe in one Parish, and after the mother goe into another parish with it, or become vagrant, so that she is sent to the place of her birth, the childe being under seven years of age, is to be sent to the place of his birth, and not settled with the mother. *Resol. of the Judges.*

If a woman settled in a service, hap to be with childe, which is like to be a charge, the reputed father being gone, or poore, the Parish where she is must be charged, but if she be in another parish, and settled, there she must continue. *Resol. of the Judges.* And therefore if a woman unmarried be hired weekly, halfe-yearly, or yearly in one parish, and there is begotten with childe, and then goeth into another Parish where she is settled in service, or otherwise, two or three moneths, and then she appeare to be with childe, and it is like to be charge to the parish, the reputed father being gone, or poor, in this case she is to be settled in the parish where she is, not where she was begot with childe. *Resol. of the Judges.* And if such a servant be got with childe, and then goe, or be legally put out

of her masters service ; the parish, not the master must bee charged with it. *Resol. of the Judges.* So if a servant be with childe when she is retained, and for this shee is afterwards by a Justice of Peace discharged of the service within the time, or she be with childe and her time be expired and she not able ; the parish not the master shall be charged herewith. *Resol. of the Judges.*

4. The Justices of the Peace in their Quarter Sessions, if any question be about these things, doe settle it according to these Rules.

5. Such as doe remove any contrary to these Rules, may be fined : and if any be sent to any place against these Rules, they are to be sent back again to the place from whence they came. *Stat. 43. Eliz.*

These Officers must provide houses as well as victuals for their poore, and therefore they may by order of the Quarter Sessions, and leave of the Lord of the Mannor, first had in writing under his hand and seale, build any house for the impotent poore of the parish, in any wast part of the Mannor. Also they may place more families then one therein, as In-mates without any danger. But then this house must not be afterwards converted into any other use : for so it may become a cottage afterwards.

6 The next main part of their office is to *Self. 6.* make rates to enable them to doe their worke *In making of Rates.* before mentioned. And for the manner and order of doing hereof, see *Rates chap. 23.* And these things are here further to be known.

1. If any man shall bring into any Parish under any pretence, a man like to bee chargeable and

Cap. 18. and burdensome, he may be raised in his rate to the full value of his estate there, if there be cause. *Resol. of the Judges.*

2. They may put a speciall and extraordinary summe upon any man to help to binde a poore childe Apprentice.

3 No reliefe can be had in these cases, but at the Quarter Sessions, where the Justices when they understand the case, will not relieve.

4 If the Parishioners pay not their Rate, the Churchwardens and Overseers may levy it by distresse and sale of their goods by a Warrant from two Justices, *Quorum unus*, and for want of distresse two Justices may send him to Goal till he pay it. 43. *Eliz.* 2.

Sec. 7.

With what.

They are to doe their work by and with the money raised by the rates: Also with the money that comes to them by the forfeitures of Delinquents, upon the Statutes against Ale-house keepers and Tiplers, sale of Tenters, default of Clothiers, the flesh in Lent in a victualling-house, for taking Partridges, profaning the Sabbath, or Gods name, and such as offend against the Statute made for the poore, and against Rogues.

Section 8.
In giving an
account.

The last part of their duty is in giving an account. They are within foure dayes after the end of their year, and after others are appointed, to give account to two Justices of the Peace what they have received, or rated and not received. 43. *Eliz.* 2.

2 What stock they have in their hands, or in the hands of any of the poor.

3 What Apprentices they have bound.

4 What

Of the Poor and Rogues.

81

Cap. 13.

- 4 What poore they have set on work.
- 5 Whom they have suffered to wander.
- 6 Whether they have met monethly.
- 7 How they have made and levied their Rates.

8 How they have executed the Justices Warrants.

9 The mony in their hands they are to deliver over to their successors, or forfeit twenty shillings, which may be levied by warrant from two such Justices to the Churchwardens and overseers.

No poore may beg but in their own parish, and that by license of the Overseers. Neither may any give Almes at their doore, but to such poore, under pain of ten shillings. *What poore may beg.*

Nor can any Iustice of Peace licence the poore to begge in any case. *Dalt. I.P.f. 153. 152.*

Any one Iustice of the Peace who may appoint overseers of the poore, may send to the house of correction; or common Gaole, any thriftlesse or idle poore that wil not work, being thereunto appointed by the Overseers, or that are otherwise disorderly by 21 *Jac.* 28. 43. *Eli. 2. Dalt. I. P. 121. 173. 7. Jac. 4.* *The power and duty of the Justices of peace out of Sessions herein.*

2 But there must be two Iustices of Peace, *Quorum unus*, to execute the Statute of 43 *Eli.* about the poore. *In making Overseers.*

3 And 2 of these nearest to the place, must yearly in the Easter week, or within a moneth after Easter, under their hands and seales, appoint 2, or more Over-seers with the Churchwardens, to look to the poore *sub pena 5:1.* to every Iustice of that Division; and these Overseers and

G

Church-

Cap. 18. Churchwardens, with the Iustices consent, are to make Rates, binde Apprentices, set the able poore on work, and provide for the impotent poore. And if any be grieved with the Act of these two Iustices of Peace, they may appeal to the Quarter Sessions, 43 *Eliz.*

In rating
and levying
of money.

4 And two Iustices must confirm the overseers rates, and may enforce the payment thereof, and require an account of them by imprisonment, on their refusall, and force them and others that have any stock in their hands, by distresse and sale of goods, to pay their successors the mony in their hands.

These Iustices may, if they perceive the Parish not able to bear the poor, charge any place within that Hundred, to pay to the Overseers of the poore of this Parish, what summes they thinke fit. 43. *Eliz.* 2. But if they goe further than the Hundred, it must be done at the Quarter Sessions. And if the Justices of Peace at their Quarter Sessions set a Rate upon the parents, grandparents, or children, and they pay it not, they forfeit twenty shillings a moneth. The which mony these two Justices may give their Warrant to the Churchwardens and Overseers to levie, by distresse and sale of their goods; or in default thereof, they may send the party to prison till he pay it, 43. *Eliz.* 2. Also they may send their Warrant to the present or subsequent Overseers and Churchwardens, to levie by distresse and sale of goods, all the Rates and Arrears thereof, and any money behinde in account in any Overseers hand. And for want thereof may commit them to Gaol till they have paid it; 43. *Eliz.* 2.

Commitment.

6 They may punish in such sort as before, Cap. 18.
 such as refuse to take Apprentices appointed In making
 to them, and such as refuse to let their children apprentices.
 be bound Apprentices.

7 Any two Justices of Peace may take or- In setting
 der to set on work Souldiers, and Mariners that poore on
 come from Sea, if they cannot get work where work.
 they live, 39. *Eliz.* 4.

8 They may compel and take the account of In taking
 the Overseers & Churchwardens every yeare at an account.
 the end of their yeare, 43 *Eliz.* 2. and make
 them pay that which is in their hands, *sub pena*
 twenty shillings. They may take the account of
 Parsons, Constables, Churchwardens, and Over-
 seers, who have the disposall of any summes of
 money given since 4 *Jac.* to be employed for
 the binding of Apprentices, who are bound
 once a yeare within a moneth of Easter, to give
 them an account thereof.

9 The Churchwardens and Overseers in the
 first case, they may force by sale of their goods,
 or for want of goods by imprisonment.

10. Any two Justices of peace may licence poor In giving
 people to goe to *Bath* for cure of their diseases: licence to
 them that suffer shipwrack, and poore Souldiers travell, or
 and Mariners, to goe from their place of lan- begge.
 ding to their place of birth, or last habitation;
 but in no case can they licence them to begge.
 But a poore Souldier or Mariner in his way
 home, may begge by 39 *Eliz.* 17. One Justice
 may licence a Souldier, or Marriner, landing
 here, and give him a convenient time to goe to
 the place whither he would goe.

Stat. II.

As touching Rogues, these things are to bee What a
 known: 1. That a Rogue, or a Wanderer (be- Rogue is

Cap. 18. ing all one) is an idle Beggar that doth wander and loyter abroad from place to place, without a lawfull Pasport, whether he begge or not.

And first, all persons above seven yeares old, that goe about begging or wandring idly, under any pretence whatsoever; but a child under seven years old cannot be a Rogue. 2. All idle persons that goe about using unlawfull Arts, as Juglers, Fortune-tellers, &c. 3. All Proctors, Patent-gatherer, Collectors for Gaols, prisons or Hospitals, (but not Patent-gatherers for fire.) 4. All Fencers, Bearwards, common Players of Enterludes, & Minstrels wandring abroad. 5. All Pedlers, Tinkers, Perty-Chapmen & Glassemen wandring abroad; especially if they bee unknowne, and have no good Testimoniall. 6. All wandring persons and common Labourers, being able to work, that Loyter, and refuse to work for reasonable wages, not having whereon to live. *Resol. Tem. Eliz.* 10. 7. Such as having licence from the Overseers, to begge in their own Parish, doe beg elsewhere. *Idem* 15. 8. Those who wander in the habit of Egyptians not being Felons. 9. Souldiers and Mariners that begge, especially if they counterfeit a certificate of their Commanders, not being Felons. 10. Persons that go to or from *Bath*, and doe not pursue their Licence. 11. A Rogue whipped that doth not pursue the directions of his Testimoniall, or that doth begge. 12. He that doth goe with a generall Pasport, and not from Parish to Parish. 13. Hee that shall goe with his Pasport himselfe without a guide: yea, it is held now that none can goe with a Pasport, but he will be Rogue, and that all Pasports are

are void. 14. Servants that goe out of their Parishes in service into another without a Testimoniall, or with a forged Testimoniall. 5. *Eli. 4.* 15. Such as run away or threaten to run from their charges, and to leave them to the Parish. 7. *Jac. 4.* 16. A Souldier or Mariner that hath a pension, and shall beg or counterfeit a certificate. 43 *Eli. 3.* 17. Those that are sick of the plague, and wilfully goe abroad in company, contrary to the Officers command. All these are held to be Rogues. And a *Feme covert* being a vagrant, is to be accounted a Rogue as well as a man, *Dalt. 1. P. ch 47.* 21. *Jac. 28.* 39. *Eli. 4.* 1 *Jac. 7.* But if the parents were not Rogues, the children shall not be accounted so, unless they beg and become so.

First, he must be whipped openly, till his body be bloody. 2. He must have a Passe or Testimoniall under the hand and seale of one Justice of Peace, or under the hands and seales of the Minister, Constable, and one of the Parish besides, appointing him whither he shall goe, which way, and in what time. 3. With this Passe he is to be sent and conveyed from Parish to Parish by the Officers thereof, the next way to the Parish where he he was born, if it may be known by his confession, or otherwise: If not, then to the Parish where he last dwelt before the the same punishment by the space of one yeare 39. *Eli. 4.* Or if neither can be known, then to the Parish through which he last past without punishment; and the Officer thereof shall carry him to the correction house, or common Gaol, where he is to be till he be placed (if able) in service, if otherwise, in an Almes-house.

Se. 12.
What shall
be done
with him.

Cap. 18.

Upon which branches these things are to be known. 1. Generally, the wife and children must goe and be with the husband and Parents. And if a wife become vagrant, she is to be sent to her husband. *Resol. of the Judges, Temp. Eliz.* 2. None shall be forced to turn Rogue, so as to be sent, &c. 3. None but a Rogue is to bee thus used; for if a servant bee out of his time, or is idle, or goe into another Parish, and is there idle, he is not so to be handled. So if a Traveller passe through a Parish. 3. The childe of a woman hanged for felony, is to bee sent to the place of its birth; and if that cannot bee knowne, to the place where she was taken. 4. He that doth run or threaten to run from his charge, &c. Such persons as being allowed by the Overseers to begge, exceed their licence. Such as have been infected with the plague, and able idle persons, that being poore, refuse to work, are not upon their delivery to be sent unto their place of birth, but to their place of dwelling, if they have any; if not, where they last dwelt for a yeare. *Dalt. I. P. f. 181.* For no man is to be put out of the Town where he dwelleth, or to be sent to his place of birth, or last habitation, but a vagrant Rogue, (that is) such a one as doth wander abroad in the Countrey, and not others, and the loyterer that will not work for the wages assessed, may be sent to the house of correction. *Resol. of the Judges, Temp. Eliz. 9.* See more to this before, on *Settlement of the Poore.* 5. He that is found in the privy search, may be punished by the Justice of Peace, or sent to the house of Correction, there to be set on work. 6. He is not to be relieved;

Commit-
ment.

if

if any Officer give him money, or an Ale-house-keeper lodge him, he forfeits ten shillings. *Dalt. 7. P. f. 156, 157.* 7. He that doth any thing in hinderance of the Execution of the Statute doth forfeit five pounds, and to be bound to the good Behaviour. *39. Eliz. 4.* 8. Such a one as is able to labour, and thereby to help himself and his, and doth threaten to run away, and leave his Charge to the Parish, or doth so.

Sect. 12
Incorrigible
Rogues,
who, and
what is to
be done
with them.

Such a one as doth appear to be dangerous to the People, that doth offer violence, or use any threatening speeches towards them, or will not leave his roguish life; but either being punished and sent home, doth rogue again, or affirm that he was born in such a place, or last dwelt a year in such a Town, and when he is come thither, it appears to be false. *Dalt. 7. P. 151.* These are by the Constables to be brought before the next Justice of Peace, who may secure them. And two Justices of Peace may send them to the House of Correction, or Goal, till Quarter Sessions, and then they are to be branded on the left shoulder with an hot Iron, &c. and from the Sessions to be sent to the place of their last habitation. *1. Jac. 7. 25.* And he that falsifieth the place of his Birth, is to be sent away by the two next Justices of that place.

Commitment.

Any one Justice of Peace may cause a Soldier or Mariner that hath a Pension, and shall beg, or shall counterfeit a Certificate. *43. Eliz.* or any other Rogues and Vagabonds which shall be begging, wandring, or mis-ordering themselves, to be whipped and sent to their place of Birth, &c. with a Testimonial of their Correction, the place to which they are to go,

Sect. 14.
The power
and duty of
a Justice of
peace herein
out of Sessions.

Cap. 18. and the time in which they are to go it; or secure an incorrigible Rogue till two Justices can send him to Gaol, &c. 39. Eliz. 4. 1. Jac. 7. But there must be two Justices of Peace *quorum unus* that may by Warrant under their hands and seals upon Confession of the Offence, or proof of two Witnesses cause to be levied by Distress and sale of the Goods of the Offender all the Forfeitures upon 39. Eliz. 4. 1. Jac. 7. viz. five shillings of the Minister for not keeping a Register Book, ten shillings of the Constable for not doing his endeavour to punish and send home Rogues, twenty shillings of him for not punishing and sending away a Rogue that is brought to him by another, ten shillings of any man that doth not apprehend him at his house begging, or that bring them out of *Ireland* hither. And to dispose of the money to the use of the Poor, or for Bridewell, according to their discretion. So also there must be two such Justices, that upon Confession or Proof of two Witnesses may by Warrant under their hands and seals levie five pounds by Distress and sale of Goods, and binde to the good Behaviour such as hinder the Execution of the Statute of 39. Eliz. 4. for Rogues; as the Officers that shall send a Rogue by a general Passport, or refuse to receive a Rogue being brought to him, or shall shift him away, or shall not deliver him to the next Parish, or any person that shall rescue, or shift away a Rogue; or the Church-wardens and Over-seers, or Parishes, that having such a one duly sent to them refuse him, or being duly settled remove him. So there must be two such Justices to hear and determine any other Question

Good Behaviour.

Of the Poor and Rogues.

89

Cap. 18.

tion upon the Statute of Rogues, which it seems they have power to do out of Sessions, as well as in Sessions. *Dalb. J. P. f. 156. 39. Eliz. 4.*

Also there must be two such Justices to send to the house of Correction or Gaol such as do run away and leave their Families, or that may upon Oath of two Witnesses send to the House of Correction such as threaten onely to do so, except they give security to save the Parish harmless. *7. Jac. 4.* or to commit any incorrigible Rogues to Bridewell; and it seems also that two such Justices may meet twice a year or more, for the Execution of the Statute of *7. Jac. 4.* against Rogues, may four or five dayes before send their Warrants for a privie search, and to apprehend and bring them before them, and to require then of all the Constables of Hundreds and Parishes to be there, and upon Oath under the Ministers hand to present what Rogues they have taken, punished, and sent away, and fine fourty shillings or under, any of them for their Default of not appearing, or not returning, or for not executing the Justices Warrants in the Convey of Rogues to the House of Correction. *7. Jac. 4. 21. Jac. 28.* But it is convenient there be more than two Justices at this Meeting. *Dalb. J. P. f. 157.*

Search.
Warrant.

CHAP.

Of Masters, Servants, Apprentices, and Labourers.

Sec. i
Who may
use Trades.
Apprentice.

FOr the better understanding of the Law, touching Masters, Servants, Apprentices, and Labourers, these things must be known. The words of the Statute in this Case are these: None but such as now lawfully use or exercise any Art, Mystery, or manual Occupation shall set up, occupy, use, or exercise any any Craft, Mystery, or Occupation now used or occupied within the Realm of *England* or *Wales*, except he shall have been brought up therein seven years at the least as Apprentice in manner and form above-said, *sub pena* fourty shill. a moneth. 5. *El.* 4, 4. *Ph. & M.* 5. 188. 1. *Jac.* 22. For opening of which Branch these things must be taken in. 1. Any man by the common Law might have used any Trade, or as many Trades as he please; and all Ordinances of Restraint herein were void. But now it seems a man may not use divers Trades, unless he have been Apprentice to them. But if the Master be a Mercer, and he did alwayes sell Grocery Wares, the Servant may do so likewise. 2. By manual Occupation is meant Clothier, Weaver, Dier, Tailor, Butcher, Baker, Brewer, Cook, Chandler, Millard, the Trades under-named, and the like. Yet it seems, the Statute doth intend other Trades as well as manual Occupations. 3. Sale by Retail is an Occupation within this Statute. 4. One may be, or hire and keep a Chandler, Millard,

Millard, Baker, Brewer, Cook, or Tailor for his own use that hath not been trained up in it, nor Apprentice to it; for it is the publike and common use of the Trade to get a Living by, and for gain, not the private use, which the Statute intendeth: but he cannot retain an Apprentice in the Trade. 5. To make a man of a Trade, he must be Apprentice to him, who did openly, commonly, and by publike Profession, sell, and not privatly by stealth. 6. If a Tradesman die, his Wife cannot use this Trade, except it be in *London*, which is by speciall Custome; and a Tanners Wife in a speciall case by 1. *Iac.* 22. 7. It is sufficient to inable a man to a Trade that he hath been brought up seven years in it, though he be not bound by Indenture. But in some Cases by the Statute he must be bound by Indenture, and as an Apprentice. 5. *Eliz.* 4. *Dalt. I. P. 99.* 8. An Infant under twenty and one years old may binde himself Apprentice by Indenture according to the Statute of 5. *Eliz.* 4. *Dalt. Iust. P. 100, 101.* And if he binde himself otherwise by Indenture, it seemes it will binde him. by *Trin.* 21. *Jac. Cook B. per curiam.* But if the Agreement be against the Statute of 5. *Eliz.* it is void.

Infant,

9. No Butcher during the time he doth exercise that Trade can use the Trade of a Tanner, *sub pœna* six shillings eight pence a day. 1. *Iac.* 32.

10. No Currier during the time he doth exercise that Trade can use the Trade of a Tanner, Cordwainer, Shoo-maker, Butcher, or other using cutting of Leather, *sub pœna* 6. s. 8. d. a Hide. 1. *Iac.* 22.

See

Cap. 19.

See 5. Eliz. 5. for Mariners and Gunners, and 2. & 3. Ph. & Mar. 11. about Weavers.

Sect. 2

Who may be compelled to serve, and how.

In Trades.

1. All those that are unmarried, and others under thirty years old, that have been brought up in the Trades under-named, [in Retainer.] or that used them three years or more, not having in any kinde of Land, or rent an Estate in Fee, or for Life *de claro*, 40. s. per annum, nor in Goods, 10. l. *de claro*, and so allowed by the two next Justices under their hands and seals, nor being retained with any in Husbandry, or in either of the said Trades, or some other, or lawfully retained, and in Office or service with some Nobleman, Gentleman, or other. Nor having a convenient Farm or Tillage of his own, whereabout he is employed, upon request of any one using the same Trade shall be retained by him. 5. Eliz. 4. And if they refuse to serve for the Wages assessed, or promise to serve, and do not, any one Justice of Peace upon Complaint may hear the matter, and if he finde them faulty, commit them, till they give Bond to the Masters to conform, and to serve according to the Law.

2. The man-childe may be bound till he is 24 years of Age, and the woman till 21, of those Poor of such Parents who are not able to maintain them.

In Husbandry.

3. All persons of men-kinde, between the age of twelve and sixty, not using the Seas, nor in service with any Fisher, Husband-man, Kidder, or Carrier of Corn or Meal for London; nor in any City or Market-town with any Tradesman there allowed to take an Apprentice, nor being retained by the year, or half year, about the

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the seeking or working of Silver, Tinn, Lead, Iron, Copper, Stone, Coal, making of Glasse, or not being a Gentleman born, a Student or Scholar, in any University or School, not having in Land or Rent in Fee or for Life *de clare* forty shillings *per annum*, nor in Goods ten li. nor having a Father or other Ancestor living whose Heir he is, and that hath such Lands of ten pounds a year, or Goods of forty pounds, not being retained, nor having a Farm [as before in the last Clause] nor otherwise lawfully retained according to this Statute shall be forced to serve by the year in Husbandry, the Husband-man that shall require him. 5. *Eliz.* 4. And if they refuse to serve for the Wages appointed, or promise to serve, and do not, any one Justice of Peace upon Complaint may hear the matter, and if he finde them guilty, commit them till they give Bond to their Masters to conform, and to serve according to this Law. Commis-
ment.

4. And such Woman as is twelve years old, and under forty, and unmarried, and out of service, if the Justices see her fit to serve by the year, week, or day, they may compell to serve for such Wages, and in such sort, as the Justices think meet. 5. *Eliz.* 4. or commit her to Prison, till she give Bond to do it. Women.

5. None is to be compelled to be bound an Apprentice after he is twenty one years old, 5. *Eliz.* 4.

6. In Harveft time to save the Corn, and when need is, any Justice on Complaint may compell those Artificers and others, to work in that work he thinks them fit for, by the day. And if he refuse, put him in the Stocks two dayes and a night,

Cap. 19. night; and this the Constable must do also, *sub*
pœna 40. s. 5. *Elix.* 4.

Secl. 3. For the better understanding of w^h branches
 these things must be known: 1. He that hath
 not sufficient lands to occupy or live upon, or a-
 nother trade, is cōpellable to serve. 2. That if any
 of these men or women, not able to live at their
 own hands by any visible meanes they have, be
 warned by two Justices of the Peace, to put
 themselves in service by a day set them, and
 they doe not, but continue to worke at their
 own hands, they may be bound to appeare at
 the next Sessions, or Assizes, and to be of good
 behaviour in the mean time, or may be sent to
 the house of correction. *Resolved of the Judges.*
temp. R. Car. 17. 3. One that wandreth may
 be forced to serve; but his first master, if he have
 any, will have him again. 4. The children that
 overseers of the poore may binde, must be a-
 bove seven. See *Poore*.

Good beha-
 viour.

Secl. 4: L Woollen cloth Weavers making Cloth
 cōmonly to be sold by Clothiers (except such as
 live in the Counties of *Cumberland, Westmer-*
land, Lancaster and *Wales*, that weave *Fritzes,*
Cottons, or *Huswivies* Cloth onely) may not
 take any Apprentice, or instruct any one but his
 sonne in their Trade, in any place but Cities,
 Townes corporate, or Market Townes, unless
 the father or mother of the Apprentice have at
 that time an estate in Fee, or for Life, of some
 hereditaments *de claro*, three pounds *per annum*,
 to bee certified by three Justices under their
 hands and seales. The tenor of the Indennite
 to be registred in the Parish where the Master
 dwels, *sub pœna* twenty shillings a moneth. 5. *E-*
lix.

About re-
 tainer, hiring
 and keep-
 ing.
 Of appren-
 tices.

liz. 4. 2. Every Houſholder uſing halfe a Plow-land, or more in Tillage, may by Indenture take to his Apprentice in Huſbandry any one above ten, and under eighteen yeares old, untill his age of 21. at the leaſt, or untill his age of 24. as they can agree. And he may require it: and if the party reſuſe to be bound, he may be enforced to it upon his complaint, by a Juſtice of Peace. *5. Eliz.* 4. 3. Every Houſholder in any Market Town not corporate, of 24. yeares old, uſing any Trade, Art, or Myſtery there (he not being a Huſbandman, or Labourer) ſo long as he uſeth the Trade, and the Town is a Market town, may take to his Apprentice the Childe of any other Artificer (not being Huſbandman, or Labourer) of the ſame or any ſuch like Town in the County, to any Trade commonly uſed in that Town (after the cuſtome of *London*) for ſeven yeares, ſo that it end not before hee bee twenty foure yeares old, *5. Eliz.* 4.

Every Houſholder in any City or Town corporate, of twenty foure yeares old, uſing any Trade, Art, or Myſtery there, may during the time he ſhall inhabit there, and uſe that Trade, retain the Sonne of any Free-man therein, or in any ſuch Town (not being a Huſbandman or Labourer) to be his Apprentice (after the cuſtome of the Citie of *London*) for ſeven years at leaſt, ſo as it end not before he be twenty foure yeares old, *5. Eliz.* 4.

But he that lives in a Market Town not corporate, & uſeth the Myſtery or Craft of a Merchant trading beyond the Seas, Mercer, Draper, Goldſmith, Ironmōger, Embroiderer or Clothier that doth put Cloth to ſale, may not take an Apprentice,

Cap. 19. prentice, or instruct any one in that Trade, except he be his own sonne, or the Father or Mother of the Apprenticè have at the time of the taking of him, an estate in Fee, or for Life, of some hereditaments *de claro*, three pounds a yeare at least, to be certified under the hands and seales of three Justices of the County, to the head Officer of that Citie or Town. And any such person that liveth in a Citie, or Towne corporate, must take no Apprentice, except his parents have 40.s. a year [as in the last in every particular.] 5. *London, Norwich, and Godalming in Surrey*, may take Apprentices according to their customes, 5. *Eliz.* 4. 6. The Smith, Plow-wright, Wheel-wright, Mill-wright, Carpenter, Rough-mason, Plaisterer, Sawyer, Lime-burner, Brick-maker, Brick-layer, Tyler, Slater, Hellier, Tyle-maker, Linnen-weaver, Turner, Cowper, Miller, Earthen-potters, Wollen-weaver, weaving Huswives or Household Cloth onely, Fuller, or Tucker, or Walker, Burner of Oare and Woad-ashes, Thatcher or Skingler, may take any Apprentices in their Trades, though their parents have no estate in lands at all. 5. *Eliz.* 4. 7. He that is retained as an Apprentice, must in some cases bee retained by Indenture, and by the Name of an Apprentice. 5. *Eliz.* 4. But another Servant may be retained by word. 8. He that is under twenty one yeares old, and is bound by Indenture to any Art, or Trade, according to the tenor of this Statute, is bound as much as if he were of full Age. 5. *Eliz.* And so in other cases. 9. If any retain any Apprentice contrary to the true meaning of this Statute, he forfeits ten pounds.

And

And all Indentures, Promises, Covenants, and Bargaines, for the taking or keeping of any Apprentice otherwise than is appointed by this Statute, are void to all intents in Law. 5. Eliz. 4. 10. He that hath 3. Apprentices in the Trades of Cloth-maker, Fuller, Shearman, Weaver, Taylor, or Shoemaker must keep one Journeyman. And for every other Apprentice above the number of three, one Journeyman, *sub pena* ten pounds. 5. Eliz. 4. 11. In the Statute of 3. Eliz. 4. after the clause before, forbidding such as have not been Apprentices, to use Trades, these words follow (viz.) None may set any person on work in any Mystery, Art, or Occupation, being not a workman at this day, except he shall have been Apprentice, as is aforesaid, or else having served as an Apprentice, as is aforesaid, shall become a Journey-man, or hired by the year, *sub pena* 40.s. a moneth. 12. None may hire any person, or be hired to serve or work with him for lesse time than one year in these Trades, viz. of Clothiers, Wollen Cloth Weavers, Tuckers, Cloth-workers, Fullers, Shearmen, Dyers, Hosiers, Taylors, Shoemakers, Tanners, Pewterers, Bakers, Brewers, Glovers, Smiths, Farriers, Curriers, Sadlers, Spurriers, Turners, Cappers, Hatmakers or Felt-makers, Bowyers, Fletchers, Arrow-head-makers, Butchers, Cooks, Millards, 5. Eliz. 5. By *Dalt. I. P. f. 97.* This clause extendeth onely to these Trades, not to husbandry: Yet (saith he) no retainer of any servant for lesse than a yeare, is good. *Quere,* For then the Assessing of wages for lesse time were void. It must be directed

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Cap. 19. therefore to retainers for husbandry by that branch before, by which men are compelled to serve by the year in Husbandry; but by agreement they may serve for lesse time. After the clause in the statute of 5 Eliz. forbidding any to give or take more than the wages assessed, this Clause followeth, (viz.) And that every retainer promise, gift, or payment of wages, or other thing whatsoever contrary to the true meaning of this Statute, and every writing and bond to that purpose, shall bee void and of none effect.

13. If any master retain a servant that hath not brought his Testimoniall, and shewed it to the chiefe Officer of the place where he is to be retained, he is to lose s. l. 5 Eliz. 4.

Sect. 5.

For the clearing of which these things are to be known: 1. By the retainer the servar is presently in service by law, though he be not so indeed, and therefore his not coming is a departure. 2. If the retainer be by one that by the Statute is not able to keep a servant, it is void. 3. If a retainer be generally, and they agree not how long, it shall be for a yeare. 4. If one retaine for 40. dayes, and after another doth retain for a yeare, the first is void and the last good. 5. If the retainer be to serve according to the Statute, on condition or generally, and say not what to doe for three yeares, or for life, and no wages spoken of, it is good, *Dalt. Just. P. ch. 31.* But a retainer for a yeare to serve when he shall be required, or for 40. dayes, is not good. 6. This Statute extends not to Serving-men, but is for Servants of Husband-men and Handicraftsmen. 7. If the retainer be by Deed, he may be bound by the Deed. For if one not compellable

pellable to serve in Husbandry, covenant to serve, he is bound by his covenant, and may be punished if he depart. 8. One cannot retain an Apprentice in that Trade wherein himselfe hath not been brought up. 9. The certificate of three Justices to the Head of a Corporation, of the ability of the Parents of the Apprentice, is not necessary; but it is needfull that he be of that ability, *Dalt. J. P. f. 98. 10.* If one take an Infant, or other servant, out of anothers service, though he be not retained, it is punishable. *Dalt. J. P. ch. 31. Compleat Justice. f. 148, 149, 11.* See more in *Deporture. 1. Ia. 24. 3 Ia. 9. 1. Ia. 17. 16.*

Self. 6.
How they must demean themselves one towards another.
Masters. - Apprentices.
Servants.

1. The Master must not abuse his servant, but give him diet and wages, and what is fit, which they must not exceed; If he abuse his servant, he may have reliefe by the Justices of Peace, to whom he must make his complaint. 5. *Eliz. 4.*
2. The servant must carry himselfe dutifully and obediently; and if he doe otherwise, hee may be punished, and the Master is to complain to the Justice of Peace. 3. If any Servant, Workman, or Labourer, wilfully or maliciously make an assault or an assay upon his Master or Mistresse, or any other appointed by them for the oversight of the work, he may be imprisoned or further punished for it. And if there be cause, the Justices of the Peace at the Sessions may discharge him of the Apprentiship. 5. *Eliz. 4.*
4. If any Labourer or Artificer that taketh upon him to do any work, do before he hath finished it, leave it, unlesse it be with the Masters licence, for lack of pay, or that he is called to a publick service, or for other good cause, he shall be imprisoned one moneth, and forfeits 3. l.

Labourers.

Cap. 19. which the master may sue for in the Sessions, and recover above his damage at Common Law. 5. Eliz. 4. (5) They must work from the middest of March till the midst of September, from 5. till between 7. and 8. and all the rest of the year from the break of day till night, all the day, (except two houres and a halfe allowed for his meals,) *sub pana* one peny for every houre he is idle, to be kept out of his wages. 5. Eliz. 4. 6. If a servant be put away by his master, without cause, it seemes he shall have all his wages. And if he be of age, and agreeth to part, yet he shall have his wages *pro rate* for the time of his service, wch the Justice of peace may help him to, for he cannot sue for it. But if the servant of his own head depart before his time, he lo:eth his wages. 7. If the servant within his time fall sick, or lame, if it be in doing his masters work, or by the act of God, it seemes he is to have his wages. 8. If the servant be an infant, yet if he doe his work, he shall have his wages. 9. If the retainer be according to the Statute, the Executor of the master after his death, shall be charged for the wages. And if the retainer bee by Deed, though it be not according to the Statute, if it be not against it, it seemes the wages is recoverable. *Compleat Justice* 149. *Dalt. J.P. f. 103.*

Self. 7.
Assessment
of wages.
The wages of all Husbandmen, Artificers, Weavers, Spinsters, Labourers, Servants, and other Workmen whatsoever, by the yeare, moneth, week, day, or otherwise, with or without meat & drink; and what every man shall take by the great for mowing, reaping, or threshing of Corne, for mowing and making of Hay, for dirch-

ditching, paling, railing, or hedging by the rod, perch, lugge, yard, pole, or foot, and the like, must be set down by the Justices of Peace at their Quarter Sessions next after Easter, or at a generall meeting within six weeks after Easter. And this the Sheriffe is to proclaim; which being done, every man is bound to observe them; so that if any refuse to pay so much as they asseste, hee is to forfeit ten shillings to the party grieved. And if the Master, directly or indirectly, agree for or give more, shall be imprisoned ten dayes without baile, and lose five pounds. And if the Servant agree for, or take more, he is to be imprisoned 21 dayes without baile. But it seemes they are not bound to this Rate on either side, till it be proclaimed. 5. Eliz.

4. 6. Jac. 1.

1. None may put away his Apprentice himselfe, nor can he be discharged but by order at the Quarter Sessions, under the hands and seales of foure Justices, *Quorum unus*. 5. Eliz. 4.

Section 8.
About dis-
charging &
putting a
way of Ser-
vants or ap-
prentices,

2. None that retaineth a servant, may put him or her away before the end of their term without cause allowed by one or more Justices of the Peace, nor then without giving a quarters warning, *sub poena* 40.s. if he cannot approve by two witnesses hee had cause allowed and did give warning. 5. Eliz. 4. For clearing of which know this, 1. The Master cannot discharge his Servant within the time, unlesse they both agree to it, by which it may be done if they bee both of age. 2. An Apprentice cannot bee discharged by word, as another servant may bee, but it must be by writing. 3. If a Woman Servant marry, yet she must not be put away, but

Cap. 12.

must serve her Time. So if two married People binde themselves, they must serve the Time.

4. If a Woman with childe be hired, and the Master know not of it, he cannot, but the Justice of Peace may put her away for this cause, before the end of her Term. But if she be gotten with childe in his service, she is not to be put away till the end of her Term. *Resol. of the Judges. tempore Caroli Regis 21.*

5. The Master may not put away his servant, because he is sick, lame, or the like, within the Time.

6. If the Master will not allow the servant necessary food, lodgng and the like; or will not pay him his Wages, or the like; or correct him immoderately, or will not licence him to depart: the Justice of Peace may allow him to depart, but he cannot depart of himself.

7. A servant cannot be discharged by his Master, without his own Agreement, or for some cause allowed by a Justice of Peace.

8. Some say, an Apprentice cannot be discharged by his Master without writing. But this is doubtfull, for if the Retainer may by Paroll (as in some Cases it may be) it seems the Discharge may be so also.

9. It is thought by some that the Servant with the mutual consent of Master and Servant, may be put away, and that this may be without the allowance of a Justice of Peace. *Dalt. Just. P. f. 102.*

See. 9.
About departure of
servants or
apprentices.

1. The not coming of a Servant hired, according to his Covenant, is a departure in Law *Dalt. 1. P.*

2. No Servant retained according to the Statute shall without cause allowed by one Justice of Peace depart out of his service before the end

end of his or their Term, 5. Eliz. 4. nor then without giving a Quarters warning before two Witnesses. And if he do, he may have remedy by two Justices of Peace, who may (if upon Examination of the matter they finde him faulty) commit him to Prison, till he give Bond to his Master to serve him for the Wages appointed by the Statute.

3. No Apprentice may depart without Licence under hand and seal of four Justices of Peace *Quorum unus* at the Quarter Sessions. 5. Eliz. 4.

4. A departure may be in an Apprentice, or Servant that is hired otherwise than the Statute; as if any of those not compellable to serve will voluntarily binde themselves, and contrary to their Agreement depart, they may be punished by the Statute. But if it be such a Retainer that is forbidden by the Statute; as for more Wages, less time, &c. then it seems the Statute makes it void. And if there be no Retainer, there can be no departure.

5. No person retained in any of the Trades Testimo. abovesaid, or in Husbandry may at the end of his niall. Term depart out of one place into another, without he have a Testimonial in Writing, under the Seal of the City, if it were from a City; or the Constable, or other head Officer, and two honest Housholders of the place where he last served, to shew his lawfull departure, and from whence he came, &c. 5. Eliz. 4. And he that doth so, is to be imprisoned till he get one, which if he get not within twenty one dayes after Imprisonment; or if he counterfeit or forge his Testimonial he is to be whipped and used as a

Cap. 19.
Of La-
bours.

Vagabond. Labourers that have been used to go into other Countries at Harvest time, and for Harvest work, may go thither, if there be not sufficient in their own County, as they have been used, but then they must bring with them a Testimonial under the hand and seal of one Justice of Peace of the County. *5. Eliz. 4.* For clearing these things, know this. 1. A woman-servant being married cannot depart, but must serve her time. So if two married People binde themselves. 2. If he come not according to promise, or refuse to do his work, though he stay with him, this is a departure in Law. 3. If a servant depart, his master may take him again, retain him. 4. They that cannot be put away, cannot depart without leave, or Agreement. *(See before.)*

6. All the Offences against this Statute may be punished at the Quarter Sessions, or Special Sessions. *5. Eliz. 4. 31. Eliz. 4.* The Forfeitures out of Corporations for these Offences go half to the King, and half to him that will sue. *5. Eliz. 4.*

See. 10
How such
offenders
shall be pu-
nished;
The power
and duty of
Justices of
peace herein
out of Sessi-
ons
Commit-
ment
Appren-
tice.

Any one Justice of Peace may do these following things, *viz.* 1. Upon request, put in the Stocks two dayes and one night such as be in their discretion fit to work by day in the Harvest time for saving of Corn, or Hay, and required, refuse so to do. 2. Command vagrant persons to Prison that will not serve. 3. Upon the Complaint of the Husband-man that hath half a Plough-land, or more, or other, compell such a one, as he in his discretion shall think fit to be bound Apprentice with the Husband-man, or other in Husbandry, or other Trade, &c. if he desire

Cap. 19.

Commitment.

House of correction.
Licence.

Departure.

Commitment.

Apprentices.

Order.

Binde over.

House of correction.
Good behaviour.

Binde over.

desire him, and on refusall imprison him till he do conform. 4. Upon Confession, or proof, send an Apprentice that purloyneth twelve pence, or above of his masters goods, and all his Accellaries to Goal; or if it be under twelve pence, to the House of Correction. 5. Licence under his hand and seal, Labourers in Harvest-time, to pass out of one County into another. 6. Allow of the cause of putting away, or the departure of a servant within his time; otherwise of an Apprentice. 7. Send to the Goal or House of Correction, common Labourers that will not work for the Wages assessed, and others that have nothing but their Labour to maintain them, and will not work for reasonable Wages, and Apprentices that run from their Masters, or are otherwise disorderly. 8. Upon complaint of the Master, Servant, or Apprentice, of any wrong done to other, in their parting before the end of the Term, hear and determine the difference, and according to his discretion set down an order between them, and if the Master refuse to obey it binde him to appear at Sessions; and if the fault be in the Servant or Apprentice, send him to the House of Correction; or perhaps he may binde him to the good Behaviour, especially if he refuse to obey his order; and then he must binde him to appear at Sessions. 9. Upon complaint, that a Servant refuseth to serve, or to serve for Wages appointed, or to do his duty, or departeth before his Term ended, is run away, or of a servant, that he doth abuse his Master, or the like; he may as it seems, send for the Party, and binde him to appear at the next Sessions of the Peace, or happily he may send

Cap. 19. send him to the House of Correction, or binde
 Good beha- him to the good Behaviour : and if the Master
 viour.

Binde over.

put away the Servant, the Justice it seems may
 binde him to answer the matter at Sessions.
 10. By Agreement between the Master and Ap-
 prentice, and by writing under the Masters
 hand, it seems he may discharge the Appren-
 tice. 43. Eliz. 2. 7. Jac. 4. 21. Jac. 28. 5. Ed. 4.
Dalt. I. P. c. 31.

Sec. II.

Binde over.

Good beha-
 viour.

House of
 correction.

But there must be two Justices (and any two
 may do it) to do these things following. viz.

1. To binde to the Assizes or Sessions, and to the
 good Behaviour in the *interim*, or to send to the
 House of Correction such as having no ability,
 had a day by them set to put themselves into
 service, and do not. *Res. of the Judges. tem. R. G.*

Committ-
 ment.

17. 2. To punish the Servant retained according
 to the Statute by Imprisonment, till he give Bond
 to serve, that before his Term end, and without
 allowance of a Justice of Peace departeth, or
 doth not come according to promise ; or being
 come doth not labour, or departeth at his
 Terms end without giving a Quarters warning ;
 or the Master by forty shillings fine that with-
 out such allowance putteth his Servant away
 before the Term ends, or for not giving a Quar-
 ters warning at the end of the Term to his ser-
 vant. 3. Upon complaint, to imprison such
 Women above twelve and under forty, as are
 compellable by the Statute to serve, and being
 required, refuse so to do, till they give Bond to
 do it. And to imprison such as are compellable
 to serve in Husbandry, or other Trades, that re-
 fuse to serve for the Wages assessed, till they
 give Bond to do it, and then to be discharged

Committ-
 ment.

without

Apprentices, and Labourers.

107

without fee. 4. To punish the Master by fine of five pounds, and Imprisonment ten dayes, for giving more Wages than is appointed, and to imprison the Servant twenty one dayes for taking it. 5. To put in Prison for one year, or less time, the servant that is proved by his confession, or two Witnesses, to have made an Affray, or Assault on his Master, Mistris, or Governour. 6. To make a Testimonial to a Servant that is to be turned away, or to go away, after his Masters death. 7. To punish him by the five pounds fine, that retaineth a Servant without a Testimonial. To commit them that hire Servants for less than a year. To imprison Labourers, and fine them five pounds, for departing from their work before it be done. But these three last things it seems must be done in a general or speciall Sessions, and cannot be done otherwise: and it seems in all these Cases before, any two Justices of Peace *Quorum unus* have power to keep a speciall Sessions twice a year between *Michaelmas* and *Christmas*, and *Lady day*, and *S. John Baptist*, wherein they are inabled by all the wayes they think fit, to make a diligent Enquiry of the Execution of the Statute of the 5. *El.* And where they finde any default to punish it, which they may do by Indictment, Information, &c. And for this they are to have five shillings a day for three dayes out of the fines and forfeitures. 5. *El.* 4. 31. *El.* 5. *Dalt. I. P.* ca. 13. And hence they may send Process against one that is departed into another County.

If any Clothier or others, refuse to give so much Wages as is set down by the Justices of Peace, there must be two Justice of the Peace,

Quorum

Cap. 19.
Commitment.

Testimonial.

Commitment.

Sessions,

Sett. 12.
Clothiers.

Cap. 20. *Quorum unus*, that upon his confession or proof of Witnelles, may grant their Warrant to distrain and sell his Goods to pay the forfeiture of ten shillings. To discharge an Apprentice of his Apprentiship against his Masters good will, or where the Apprenrice is not of age to agree, or he was bound by others, it must be done by four Justices of Peace, *Quorum unus*, and that in the Sessions, and cannot be elsewhere. But it may be at this private Sessions, if there be so many there of the Justices. *5. El. 4.* Two of the next Justices may in *Easter*, or within a moneth after, take the account of such as have the disposition of any money for the placing of Apprentices in any Parish within the County, by any mans gift. *7. Jac. 3.*

Appren-
tice.
Discharge.

Account.

CHAP. XX.

Of sending to Bridewell.

Loiterers. **A**Ny one Justice of Peace may send to Bridewell him that will not work by the appointment of the Over-seers of the Poor, or common Labourers which refuse to work for the Wages asselled, or for reasonable Wages, if they be such as have nothing but their Work to live upon. *Dalt. J. P. f. 121. 39. El. 4. 43. El. 2. 7. Jac. 4.* So a common Hedge-breaker, or Robber of Orchards, against *43. El. 7. Dalt. I. P. fol. 173.* But there must be two Justices of Peace, *Quorum unus*, to send to the House of Correction, or Gaol, on proof of two Witnelles

Hedge
breakers,

Cap. 21.
Such as run
from their
Families.

Such as
have
bastards,
Vagrant.

Rogues.

Witnesses, such as do run away, and leave their Families to the Parish; or upon Oath of two Witnesses to send to Bridewell such as threaten to do so, unless they give security to save the Parish harmless. 7. *Iac.* 4. So to commit the Woman thither a year, which hath a Bastard childe that may be chargeable to the Parish. So to commit thither one that doth beg beyond his License. So to commit thither such as being poor and not able to keep their Children, yet will not suffer them to be bound Apprentices by the Over-seers, but entice them away. So to commit thither an incorrigible Rogue, yet one Justice may secure him, till two Justices can come together. 7. *Iac.* 4. 39. *El.* 4. *Dalt.* I. P. 154. So also to commit thither any other wandring, idle, or disorderly persons. *The same.* See 21. *Iac.* 6.

C H A P. XXI.

Of Cloth, and Clothiers, Weavers, &c.

Any one Justice of Peace may enter into any place, and search for Tenters, Wrinches, and such like Engines, which are used for the deceitfull stretching of Cloth; and finding any by view, or Oath of two Witnesses, he may deface them. And for the second Offence sell them. But there must be two Justices of Peace to dispose of this money to the use of the Poor. And if the Justice upon complaint to him doth not search, he loseth five pounds. 39. *El.* 20. 43. *El.* 18.

Se^{ct.} 1.
The power
and duty of
Justices of
Peace here,
in out of
Sessions.

There

Cap. 21.
Over-seers,
Recogni-
zance.
Oath.

There must be two Justices to make Over-seers of Cloth, or Searchers: and they must binde them by Oath and Bond to do their best, that these things may be observed. 1. That they do once a Quarter at least search the Clothes, wheresoever they be to see. 1. That the measure be according to the Statutes. 2. That the Cloth be sealed, and the Seal express the measure, and the names of the Over-seers, &c. 3. That it be not stretched, nor shrunk more in wetting than a yard and a half in length, and half a quarter in breadth. 4. That no Tensers, &c. be used. 5. That no Iron Cards, or Pickards be used. 6. That no Cloth or Wooll be falsly dyed. 7. That no deceitfull stuff be interposed. 8. That it be not deceitfully pressed. 2. Ed. 6. 2. 39. El. 20. 43. El. 20. 4. Jac. 2. 21. Jac. 18. 5. Ed. 6. 6. 7. Jac. 16. 3. Jac. 1.

Sec. 2

Warrant.

Any two Justices of Peace may upon Information of any Default given them by any Searcher or Over-seer of Cloth of any other, call before them any person known or suspected to offend by mixing Flox, Nailes, Thrums, or Hair, or any deceivable things in their making of Cloth; call & swear Witnesses for the examining of the matter, and if they finde it true by proof of two Witnesses, or the parties confession, notify it to the Churchwardens and Overseers of the Poor, and give them a Warrant to levie the Forfeiture by Distress and sale of Goods, and for lack thereof, may commit the Offender to Gaol till he pay the money. 21. Jac. 18.

Sec. 3.
Warrant.

There must be two Justices, *Quorum unus*, upon proof of two Witnesses, or confession of the party, to give Warrant to levie by Distress, and

and sale of Goods, the ten shillings Forfeiture upon Clothiers, and others that refuse to pay their Wages assessed by the Justices of Peace at *Easter Sessions*. 1.*Iac.*6. So also there must be two such Justices, who upon confession, or proof of two Witnesses may fine five pounds, give Warrant to levie it by Distress, and for want of Distress commit him to Prison, who doth put in any Flox, &c. into broad Cloth, on 21.*Iac.*1. So to take Information of the deceitfull usage of Linnen Cloth, of him that seized it, and to binde him to give Evidence at the Sessions, on 1.*El.*12. But any two Justices may require Weavers, Carders, &c. and their Receivers knowing thereof, that imbezle or detain Wooll or Yarn, upon confession of the party, or Oath of one Witness, to make satisfaction, according to their discretion, or cause them to be whipped or stocked. 7.*Iac.*7. So also these two Justices may divide defective broad Cloth presented to them, into three parts, and give one part to the Over-seers of the Cloth, and two parts to the Poor, upon 4.*Iac.*2. 4, & 5.*Ph.* & *Mar.*5. 21.*Iac.*18. So also these may divide defective Cloths, Kersies, Frizes, or Cottons, into three parts, upon 5, & 6.*Ed.*6. But enquire if it may be done out of Sessions. For the Statute is, that two Justices of the Peace may take the Presentment of him that findeth the faulty Cloth, to the intent the Cloth may be cut into three equal parts, the one to the King, the other to the Presenter, the third to him that it shall be presented unto. And it seems it may. Every Justice beyond *Trent* hath some power herein for to see to the Cloth of that Country. 39.*Eliz.*28.

Cap. 21.

21. *Jac.* 18. But for the better knowledge of these things observe, 1. These severall deceits following.

Sect. 3

The severall offences by grease, or laying on or in of any such like liquid or moist thing of any kinde of grease, or oyle, save onely upon the edge of the sheares, and not shearing it plaine, 4 *Jac.* 2. thirteen shillings foure pence forfeiture.

2. The raising, fulling, rowing, or shearing the Lists and sides of Clothes, and Kersies, better than the middle, and not doing all alike wel, thirteen shillings foure pence, *Idem* 4 *Jac.*

3. The cutting and taking away of Wooll from the back-sides of Clothes and Kersies, with knives or such like devices, it being onely to be shorn with a pair of sheares, thirteen shillings four pence, 4 *Jac.*

4. The blowing, spowting, or bedewing of Broad-cloth or Kersies, on the sides and edges neare the Lists, with water or other liquid thing, whereby they may there appeare better than in the midst thereof, thirteen shillings four pence.

5. To doe so of purpose to increase the weight, & deceive the Buyers or Searchers, fourty shillings. But abatement is to be allowed for dressing, &c. 4 *Iac.* 2.

6. To put Flox, Nayles, Haire, Thrums, and Lambs wooll, or other deceiveable stuffe, 43 *Eli.* 10. 21 *Iac.* 18. into broad Woollen cloth, five pounds, no more, to the poore. So to put in any Chalk, Flower or Starch, fourty shillings 3 and 4. *Ed.* 2.

7. But Flox, Hair and Yarn made of Lambs Wooll, may be put in white Straights made in Devonshire and Cornwall, by the 27. *Eliz.* 18. and must have a speciall mark by 4. *Ia.* 2.

8. The making of them lesse in length, breadth or weight, than the Statute of 4. *Ia.* 2. which repealeth 6. *Ed.* 6. 4 & 5. *Ph. & M.* 27. *Eliz.* 17. 35. *Eliz.* 7. 10. 11. 3 *Ia.* 10. as to this point, or lesse than the seale purporteth, 4 *Ia.* 2.

9. If it want weight, or exceed in length, against 4. *Iac.* the Searchers or Over-seers that find, may certifie it by their Seals, and have half the forfeiture, by 4. *Ia.* 2. And by 21. *Iac.* it is but a third part. If the Buyer shall finde any default not made knowne by the Searchers, or Over-seers seale, he may call the Seller, and in his, or some one of his appointments presence, examine the same; and if the default be found, the Buyer shall have one halfe of the forfeiture, by 4. *Iac.* 2.

10. Ten shillings every yard over the length. Ten shillings for every pound above two pound wanting weight. If of full weight and length, and faile in breadth, if it be through the whole cloth, twenty shillings: if halfe, ten shillings: under halfe, five shillings.

11. The Forfeitures for want of length, breadth and weight, the Over-seers that finde and certifie the default, may recover in the Quarter Sessions a third part of it: the other two parts shall bee to the poore of the place where the Cloth is made, to be levied by the Churchwardens and Over-seers, by distress and sale of goods, 21 *Iac.* 18.

12. The pressing of any Cloth but what is to
I be

Cap. 21. be transported, 3. & 4. *Ed. 6. 2.* or pressing of Cloth with the hot Presse, or otherwise than with the cold Presse, 5 & 6. *Ed. 6. 5.* losse of the Cloth, or value: Or heating of thick Boards or Plankes, and laying them under and above the Cloth in the cold Presse: Or putting of thin or seeling Boards, or Past-boards made hot into the Cattles or plates of Clothes, and then presently putting the same into a cold Presse: Or any other pressing with any heat of fire, or the like deceitfull meanes, 21. *Fac. 18.*

13 The using of Tenters, and such devices with a lower Barre, Pinne, Ring, or other Engine, whereby any rough and unwrought Wollen Cloth made to be sold, shall be stretched in breadth, or the having, keeping, or using of any Wrench, Ring-head, Growme, Rope, or other Engine for the stretching of any such Cloth in length made to be sold *sub pœna*, twenty pounds 43. *Eli. 10.* Or setting of any such Cloth made to be sold, upon any such Engines to be stretched, or to stretch it more than thus: The whole wrought Wollen Broad-cloth, one yard in length, and one halfe quarter in breadth, and so the rest according to 43 *Eli. 10.* *sub pœna* the losse of the Cloth. So hee that shall sell the Cloth so stretched, *The same* See 21. *1a 18.* and being transported it may be returned by 43 *Eli. 10. 7.* The boyling of Wools with Gawls, Rindes, Barkes of Trees, or Saw-dust, *sub pœna*, the losse of Wools, 5 & 6. *Ed. 6. 6.*

14 The dying with Logwood, Woad, or other such like stuff, against 39 *Eli 11.* See *Logwood.*

15 The selling by lesse measure than a yard and an inch, six shillings eight pence every yard 3 & 4 *Ed. 6. 2.*

16 For

16 For deceit in false colours put upon Cloth, or Wooll, and in using of Iron Cards, or Pickards: See in the *Charge. fol. 17.*

17 It being wet, or shrunk more than a yard and a halfe in length, and a quarter in breadth of a whole Cloth, & sic pro rata in other pieces, it is suspicious, and not to be sold by the Clothier, *sub pœna* twenty shillings. 3 & 4 Ed. 6. 2.

18 The Clothier must not sell his Cloth till he have paid or agreed with the Aulneger for his fee, *sub pœna* twenty shillings, 5 & 6. Ed. 6. 6. and he must seale it, for it cannot be transported till then, *sub pœna* losse of the Cloth, or the value, 5 & 6 Ed. 6. 5.

19 The working of it by a Gigmill, five pounds, 5 & 6 Ed. 6. 22.

20 The Aulneger must seale it, and be paid his fee ere it be put to sale, 27 H. 8. 12. 5 & 6 Ed. 6. 6.

21 All Customes and Duties must be paid to the King, 4 Ja. 2.

1. Justices of Peace must make Over-seers in every place. See 2 & 4. Ed. 6. 39 Eliz. 20. 43. How altered and remedied. *Self. 4.* Eliz 10. who may as oft as they think fit, enter into any houses to see how their Cloth is made, and must every quarter, *sub pœna* 10. l. 3 Ed. 6.

2. 7. Jac. 16. 21. Ia. 18. of what weight and measure it is, &c. And by their scales affixed, declare and certifie that which is good, and set down both their names on the Seale, 21 Ia. 18. and with the word *Faulty* upon that which is bad. And the Over-seers is to put his two names in the seale he doth affix, 21 Ia. 6. 3. He that doth interrupt them in the doing of their duty, forfeits twenty pounds, 3 & 4 Ed. 6. 39.

Cap. 21. *Eliz.* 10. If the Over-seer refuse, he forfeits fourty shillings, 3 & 4 *Ed.* 6. upon information two Justices of Peace may punish the deceits used in the making of Cloth, 21 *Ia.* 18.

Searchers. 4 Searchers must be appointed in Corporations, Cities, Borowghes, and Port-Townes, who may doe likewise as Over-seers, for the Clothes that shall bee dressed, died, or pressed in such places, 21. *Ia.* 18. And the Cloth woven there must be searched ere it be sold, 4 & 5 *Ph. & M.* 5. 21. *Ia.* 18. They must set their Seals to distinguish good and bad cloth. If the Searcher refuse without good cause, he loseth five pounds, 5 & 6. *Ed.* 6. 5. Yet that which hath been searched, viewed, weighed, and sealed already by the Overseers of Cloth lawfully authorized in any place, may not again be viewed, searched, or weighed, by any other Officer or person, 4 *Ia.* 2. 21. *Ia.* 18. 43 *Eliz.* 10. *sub pœna* five pounds to the party grieved, 3 *Jac.* 17. But he that buyeth it may search it. 5. The Clothier to every Cloth hee makes, must set his Seale of Lead, declaring the just length thereof, to bee tried by, and as it will be in the water, 3 & 4 *Ed.* 6. 2. 39. *Eliz.* 20. If the Merchant transport it before this be done, he loseth it, or the value of it, 5 & 6 *Ed.* 6. 6. and mark it with the Letter E. and M. 4. & 5. *Ph. & M.* (3 *Jac.* 17.) crowned wrought in the Cloth, *sub pœna* twenty shillings, 3 & 4 *Ed.* 6. and with his own marke, 27. *H.* 8. 12. 5. *H.* 8. 2. The Searchers of great Townes must also set to their Seales of Lead, with the Armes and name of the Towne to every Cloth. And if they finde it faulty, they must put another Seale of Lead with the letter F. into it at both

both ends of the Cloth, and another mark on the List against the place where the fault is, *sub pœna* five pounds to the chiefe Officer of the place, 5 & 6 Ed. 6. 5. And he that shall take off, or counterfeit either of these Seales, the first offence ten pounds; the second, Pillory and losse of goods and chattels, 5 Ed. 6. 6. 6. None may sell Cloth in grosse, or by retaile, so dressed, died, or pressed in such Citie, &c. except the seale of the Citie be fixed to both ends of the Cloth, or that their scale remaine at the last end of the Cloth that shall be sold, 5 & 6. Ed. 6. 5. 7. The Merchant, Draper, and others, that buy Cloth by retaile, though it be duly sealed, may not sell it till they have wet & tried it: And if they finde any fault in it, they are to Present it to the next Justice of Peace, *sub pœna* double the value of it, 5 & 6. Ed. 6. 6. And they are to have a third part of it, and yet shall have their money again of him that sold it, 5 Ed. 6. 6. And if any such Cloth after such searching in the Countrey, shall be found faulty in any thing not yet certified, and appearing by the Seals of the Over-seers and Searchers, to him that buyeth it, he may cause it to bee tried, giving notice to the seller to bee there if hee will; and being found, the buyer shall have the moiety of the forfeitures.

And the Clothier that loseth by deceitfull Cloth by the Dyer, or Dressers, &c. fault, may have his remedy against them, 5 & 6. Ed. 6. 5. If a Cloth, by the default of Workmen, prove purffie, cockley, bawdy, swally, or rowy, by Warp or Woofe, or shall bee evill burled or wasted in the Mill, or by the default of some

Cap. 22. work-men be full of holes, and it be offered to sale, not having a seal of Lead upon it with the word [*faulky*] upon it; the Cloth or value thereof is forfeit. 4. & 5. Ph. & M. 5.

9. If the Cloth after Triall by the Buyer before the Seller, if he will be there, having notice; otherwise in his absence prove less in measure than the Owners seal speaketh, he loseth six shillings eight pence, for every yard it is less, and must pay the value of the wanting Cloth, by 4. Iac. 2.

For the Cloth in *Yorkshire*. See 39. Eliz. 20. 21 Iac. 18.

For *Mildernix* or *Powl David*. See 1 Iac. 24.

CHAP. XXII.

Of the making and ordering of Officers.

Seff. I
The power
and duty of
the Iustices
of peace out
of quarter
Sessions
herein.
Over-seers
of Cloth.
Recogni-
zance.

TWO Justices of Peace may and must once a year call before them, and appoint two or more Searchers or Overseers of Woollen Cloth, within every place out of a Corporation, where Cloth is made or sold, for a year or less time, as they please, and binde them by Oath and Bond of fourty pounds to do their duty: and he that refuseth the Office being appointed by the Justices of Peace, not rendering a reasonable Excuse loseth fourty shill. whereof the one half to the Justices of Peace requiring him. See more in *Cloth. 3. & 4 Ed. 6. 2.* And he is to be in the Sheriffs custody till he pay it, or secure the payment of it.

Two

Of making of Officers.

119

Two or more Justices of Peace *Quorum unus*, Cap. 22. dwelling in or near the place must yearly within *Seſſ. 2* a moneth of *Eaſter*, by Warrant under their *Over-ſeers* hands and ſeals appoint two or more ſubſtantial of the poor. Houſholders of every Pariſh to be *Overſeers* of the Poor, and to joyn with the Church-wardens therein, *ſub pœna* five pounds. and he that re- *Warrant,* ſuſeth, or is otherwiſe faulty in doing his Office, forfeits twenty ſhillings; which theſe two Juſtices upon prooſe by Confeſſion, or Witneſſes may levie by Diſtreſs and ſale of Goods. And *Commitment,* in default of Diſtreſs they may commit them to Gaol without Bail till they pay it. 43. *Eliz. 2.*
See more in Poor.

The making, removing, and ſwearing of High *Seſſ. 3* Conſtables, Petit Conſtables, and Tithing-men *Conſtableſſe* may be by the Juſtices of Peace. The High Conſtable is moſt properly to be made at the *Seſſions,* Quarter Seſſions, or by the more part of the Juſtices of that Diviſion. But he and the Petit Conſtable may be made, ſworn, and removed, by any one Juſtice of Peace, eſpecially if it be in caſe of neceſſity that an able Officer is wanting, the old being dead, or removed, or an inſufficient one choſen, and there being a great time to the Leet and Seſſions, wherein this defect may be ſupplied. Yet ſome ſay, If he be choſen in a Leet, there muſt be two Juſtices of Peace to remove him. But it was reſolved by all the Judges. *tempore Caroli.* That if the Leet chooſe an unfit man, any Juſtice of peace may *Leet,* remove him, and put in one that is fit. And the Lord alſo may loſe his Leet by this defect. The Juſtice then that doth ſo muſt be ſure he hath good cauſe ſo to do, and then he may do

Cap. 22. *it, Dalr. 7. P. f. 16.* But the most proper Remedy to remove an Officer unduly elected, is by complaint at the Assises or Quarter Sessions. And if any such Officer required by a Justice of Peace to serve, refuse to take his Oath, the Justice of Peace may binde him over to the Assises or Sessions, or may indict, fine, and imprison him.

Binde over.

Indictment.

One Justice of Peace may require Constables to present such as lodge strangers in any upland Town, for whom they will not answer. *Winch. 13. Ed. 1.*

There must be two Justices of Peace *Quorum unus* to punish a Constable for his neglect in his Office in the punishment of Rogues, and to leve the ten shillings forfeiture on *1 Jac. 7. 39. Ed. 4.* So to fine him under forty shillings, if he do not appear and do his duty at the petit Sessions about Rogues. *7 Ia. 4.* So likewise to call to account Bailiffs, and head Constables on the complaint of Church-wardens for the money received by them on Estreats for the Fines of Offenders about high-ways, and by Imprisonment till Payment, to compell them to pay it in to the Church-wardens. *3 M 8. 5 Eliz. 13.*

Self. 2

Over-seers
of Weights
and Measures,
Fine.

Self. 4

Over-seers
of Rivers.

Self. 5

Treasurers
of the County
stock,
Governour
of Bridewell,
Collector for
the Common Gaol.

Any two Justices of Peace *Quorum unus* may according to their discretion punish by Fine the defaults of Officers that do not twice a year view Weights and Measures, and destroy the defective ones. *11 H. 4. 4. Dalr. 1. P. Chap. 65.*

Any one Justice of Peace may put in Over-seers of Rivers, and survey them. *27 R. 2. 9.*

The Treasurers of the County stock, Governour of Bridewell, and Collectors for the Prisoners in the common Gaol must be chosen at the Quarter Sessions, and cannot be chosen elsewhere

where. But any two Justices of Peace may give Warrant to levie by sale of Goods the Fine imposed by the Justices of Peace at Sessions on the Treasurers of the County stock for their neglect or refusal. Cap. 22.
Warrant.

Any one Justice of Peace may punish the Defaults of Sheriffs in not returning sufficient Jurors that have fourty shillings a year Land about a Forcible Entry. And this it seems he may do by Indictment at any Sessions. 8 H 6.9. *Dalt. I. P. f. 73. 93.* Sess. 6
Sheriffs.
Return of
a Jury.

So also he may upon complaint against a Sheriff of Abuses in his County Court, viz. that he entreth a Plaint in the name of a man who is not present himselfe, nor by his Attourney. Abuses in
the County
Court.
2. That pledges sufficient are not put in by the Plaintiff. 3. That the Plaintiff doth enter more than one Plaint for one Cause. 4. That more Plaints are entred than the Plaintiff desired. 5. Or that his Bailiff do not warn Defendants, he may examine the Sheriff, or any of his Officers, and if he finde it by their confession; or otherwise, he must certifie it within a quarter of a year into the Exchequer. 11 H. 7. 15. And any one Justice may examine the Collectors of the Sheriffs Amercements, if they have collected more than is within their Estreats, and if they finde it, certifie it to the Exchequer.

But there must be two *Quorum unum* to overlook the Sheriffs Books and Amercements, and to seal the Indentures of his Estreats, being appointed thereunto by the *Custos Rotulorum*, or eldest of the *Quorum*. 27 Eliz. 12. And they are to swear the Bailiffs, Collectors, &c. that they shall take no money more than is contained by their

Cap. 23. their Estreets sealed by the Justices. 27 El. 12.
 11 H. 7. 15. *Dalt. I. P. Chap. 51.*

Commit-
ment.

If a Sheriff or other Officer that hath the breaking of Writs send his Warrant to summon or arrest a man to appear in the Sessions without having an Original to warrant it, It seems the Justices may send for him, and the Procurers hereof, and examine the matter, and if proved by Witnesses, or confessed, they may send them to Gaol without Bail till they pay the Partry grieved ten pounds, and his Costs, &c. 43 El. 7.

Seff. 7
Searchers of
Tiles.

Two Justices may appoint such as they think to be fit to be Searchers and Examiners of the Defaults in Tile-making. 17 Ed. 4. 4. *Dalt. I. P. fol. 174.* And these may present Defaults upon their own view. *Sed quere of this.*

C H A P. XXIII.

Of Arrest, and Imprisonment, Bail, and Prisons.

Seff. 1
What an
Arrest or
Imprison-
ment is.

FOR the better understanding of so much of the Law in this point as concerneth Justices of Peace, these things are to be known. 1. An Arrest is the first Act of Imprisonment, when one is first restrained of Liberty; and Imprisonment is the continuance thereof, when a man (where ever he be) is so restrained that he cannot go whither and when he will, as at other times. And to lay hands on a man and hold him, keep him in a house, lock him

him in a Room, tie him to a Post or Tree, put him in Prison or Stockes, or the like; or if a known Officer do but say, *I arrest you in the Kings name*; all these are Imprisonments. But to require another to stand or stay, or say He will arrest, or doth intend to arrest him, but doth not lay hands upon him; or to require him to appear before a Magistrate, or the like; these are no Arrests nor Imprisonments. *Cook* 9.66, 69.

For the Answer of all these Questions, observe these things.

1. Any man that hath Authority by Law so to do may arrest and imprison another. As a Justice of Peace, Sheriff, Constable; and in some Cases, every man; as in the apprehending of Felons, keeping the Peace, &c.

2. Any man or woman (except Barons, and Peers) may be arrested and imprisoned.

3. One may arrest or imprison another in most Cases at any time, either in the day, or in the night, and upon any day of the week. But if a Minister be arrested on the Lords day, he that doth arrest him must take heed he do it not either at Church or in his going to, or coming from it, for that may be punished. *Cook* 9.66.

1 R 2. 15.

4. It may be done in any place that is not privileged from Arrests, (as some places are) as in the house, field, and it may be done in a Church, but then care must be had that no disturbance be made to the Congregation.

5. These Persons, and for these Offences, and for the time, and in the places hereafter named are to be imprisoned, and that without Bail, otherwise than is set down, *viz.*

See §. 2

Who may do it. And to whom it may be done, and for what causes, and how, and when, and where.

Minister.

Bail

1. Ale-

Cap. 23.

Alehouse
keepers.Committ-
ment.Recogni-
zance.House of
correction.Committ-
ment.

Ride armed.

Over-seers of
cloth.Deceivable
cloth

Bastard.

Supravisors
of the high-
wayes, &c.

Account.

Officers for
neglects.

1 Ale-house-keepers without License, and prohibited by two Justices of Peace, that notwithstanding doe sell, may bee committed to any prison for three dayes, and untill they enter into recognizance with two sureties, not to doe so again. And for the second offence, to the House of Correction for one moneth; and for every offence after, till they be discharged by Quarter Sessions.

Such Ale-house-keepers as offend by suffering tipling, or in the Affize, and have not sufficient distresse, may bee imprisoned till payment.

2. Such persons as go or ride armed, may be imprisoned till they pay their fine for it.

3. He that being appointed an Over-seer of Cloth, refuseth, is to bee imprisoned till he pay five pounds.

4. Such as make deceiveable Cloth, and have no distresse to answer the forfeiture, are to be imprisoned till payment.

5 The mother or reputed father of a Bastard, are to be imprisoned till they perform the Justices order, or give bond to doe it. And shee is to bee kept in the house of Correction one yeare: And for the second offence till she give bond and suretie of the good behaviour, and not to offend again.

6. Surveyors and Collectors for Bridges, and for Gaols, and such as receive the money forfeit for offences about High-wayes, that refuse to account, are to be imprisoned till they doe it.

7. Constables and Church-wardens that levie not the forfeitures upon Ale-house-keepers that offend, and have no distresse, are to be imprisoned

prisoned till they pay fourty shillings. The Constable that doth not levie the twenty shillings for keeping an unlicensed Ale-house, is to be imprisoned till he doe it, or pay fourty shillings. For not whipping a Trespasser in Orchards, Woods, &c. according to his Warrant, hee is to bee imprisoned till hee cause it to bee done.

8. Dyers that use Logwood, are to be imprisoned till they pay the forfeiture. Logwood.

9. Such as refuse, being required by lawful authority, to put in surerly for the peace, good behaviour, or to appear at Sessions, &c. and refuse, are to be imprisoned till they do it. And in most cases they may not be delivered by the death of the party at whose suit it was done, without the help of the Sessions or Gaol-delivery; where a Justice hath power by any Statute to bind over any man, or cause him to doe any thing which he refuseth, being required by him: in this case it seemes he may send him to Gaol till he doe it. *Dalt. J.P. 296.* Such as refuse to be bound.

10. Destroyers of Ponds, &c. are to bee imprisoned three moneths, and after till they find surerries for their good behaviour for seven yeeres Commitment.

Destroyers of, and such as shoot at Feasants, &c. are to bee imprisoned three moneths, unlesse they pay twenty shillings a Fowle. So for Hares. Destroyers of Fish, Fowle, &c.

Those that doe hunt with Grey-hounds, or Ferrets, are to be imprisoned a yeare. Hunting.

11. Such as destroy the game in Parkes, are to be imprisoned three yeares.

12. Such as hawke between the first of Iuly & the

Cap. 23. the 31. of August, are to be imprisoned a moneth, unlesse they pay fourty shillings a time, and twenty shillings a Partridge.

Eaters of flesh.

13 Eaters of flesh in Lent, if they pay not twenty shillings, are to be imprisoned a moneth.

Shooters in in Guns.

14 Such as shoot in Guns, are to be imprisoned till they pay ten pounds.

Rioters.

15 Offenders in Riots, Routs, unlawfull Assemblies, forcible Entries and detainer, are to be imprisoned till they pay their Fine, or finde sureties to doe it.

Fine.

16 For a Fine put upon a man in any Court of Record generally, a man shall be imprisoned till he pay it or secure it. *Broo. Impr. 92.*

Breach of the peace.

17 A man may be imprisoned for breach of the peace: For if there be any breach of the peace, or apparant likelihood thereof by any persons, or they assault the Officer himselfe, he may set them by the heels, or put them in ward for a time; but after it is past, hee can doe nothing to them, *12 H. 7.*

18 So if two be fighting, any one may take one of them, and lock him up for a time till the heat be past: but if they bee quarrelling onely, hee cannot doe it, *5 H. 7. 4.* unlesse he be an Officer.

Madmen.

19. A man that is mad and furious, may be imprisoned to prevent mischief.

Forestallers.

20 Forestallers, Regrators, and Ingrossers, are to be imprisoned two moneths.

Conveyers of Bowes.

21 Aliens that convey away Bowes, may be imprisoned till they bee fined in Sessions, and give bond to pay it. *33. H. 8. 9.*

Forgers of Deeds.

22 Forgers of Deeds, if they concern Freehold,

Baile and Prisons:

£27

hold, &c. are to be imprisoned for their lives, *Cap. 23.* otherwise but for a year.

23 Such as keep places of, or play at unlaw- *Unlawfull*
full games, are to bee imprisoned till they give *Games.*
surety no more to offend.

24 Hostlers that take excessively for Horse- *Hostlers.*
meat, or make Horse-bread against 21 *Jac. 21.*
or make it not of the due assise, for the second
offence are to be imprisoned one moneth.

25 Labourers and Artificers that goe from *Labourers.*
their work ere be finished, are to be imprisoned
a moneth.

26 Such as without allowance of a Justice *Departure*
of Peace, depart before the terme end, or at *out of ser-*
their term end, without a quarters warning be- *vice,*
fore two witnesses.

27. Such as are compellable to serve, and re- *Refusers to*
fuse to serve on request, or have promised to *serve.*
serve, and doe not serve accordingly: all these
are to be imprisoned till they be bound to the
party to serve according to the Statute: And
such as refuse to bee bound Apprentices, are to
be committed till they doe conform.

28 The Over-seers of the poore that refuse *Poore over-*
to account, or pay the money in their hands, or *seers,*
that pay not the twenty shillings for any de-
fault, may be imprisoned till they doe it.

29 The Grandfather, Father, &c. refusing to *Order of*
obey the Justices order, may in case of lack of *Justices.*
distrelle, be imprisoned till he pay the twenty
shillings a moneth forfeiture.

30 Such as refuse to pay their Rates for the *Rates,*
Kings Bench and Marshalsey, or for the Coun-
ty stock, are to be imprisoned till they do it.

31 Such as to refuse to pay their Rates for the
places

Cap. 23. places that have the plague, if they have no distresse, are to be imprisoned till they pay it. So for the Rates of the poore.

Refusers to come to church.

29 Such as come not to Church every Lord day, and have no distresse to pay their forfeiture, are to be imprisoned till payment. So for the forfeiture for the moneths absence, 23. *Elizabeth. 1.*

Rogues.

30 Incurrible Rogues are to bee imprisoned in Gaol or in Bridewell till the next Quarter Sessions.

Disturbing the preacher

31 Such as disturb Preachers, hinder the arrest of such persons, or rescue them from arrest, are to be imprisoned three moneths, and till the next Sessions.

Perjured persons.

32 Perjured persons are to be imprisoned six moneths. And the promoters thereof not having to pay their penalty one yeare.

Prophesiers.

33 False Prophesiers are for the first offence to imprisoned one yeare, and for the second, for life.

Refusers of the oath of allegiance.

34 Such as refuse the Oath of Allegiance, being being lawfully tendered to him, were to imprisoned till the next Assises, or Quarter Sessions.

Sectaries.]

35 Sectaries that oppose our Religion and Exercise, and draw men and goe to others, are to be imprisoned till conformity and open submission.

Malters.]

36 Such as disobey the Justices order for restraint of Malting, may be imprisoned three dayes, and after till he give bonds of 40 pounds to doe it.

37 And none of these areailable before the time, or otherwise than is before set down

38 Sec

38 Such as disobey an order of Sessions, may be imprisoned for it. And it seems may not be bailed by any Justices of the Sessions. *Sed quare.* Cap. 23. Disobedience to Sessions orders. For such as are arrested on the Sessions process, areailable by two Justices, *Quorum unus.*

Trespassers in Parkes may be arrested there. So he that hath a Gun may be arrested

39 For any Treason or Felony that a man hath done, or upon some cause a man is suspected to have done, he may be arrested and imprisoned, and that by any man that hath cause to suspect him. For any man may arrest another that is either indicted of Felony, outlawed for Felony, &c. or he knoweth or seeth to have committed a Felony; or after a Felony is done, if he have cause to suspect him. And so may any man arrest him that is apparantly going about to commit a Felony, or him that hath dangerously hurt another in an affray, or night-walkers, that are suspitious. But except it be in such like case, and for prevention in some cases, as where two are about to be incontinent, to break the peace, or the like, a man is not to be arrested but upon Process or Warrant frō some Court of Record, & by authority from Justices of Record, and after conviction by a Jury, or otherwise. But regularly none may commit another to prison, but he that is a Judge of Record, 9 Ed. 4. 26. 20. Ed. 1. 4. 6. 11. Ed. 4. 4. 3. H. 7. 1. Lamb. 7. P. .88, 189. Suspicion of Felony. Night-walkers. Incontinency.

40 Men may be imprisoned for many other causes; but the Conusance thereof doth not at all belong to the Justices of Peace.

41 A Murtherer quit before the yeare and day, is to be sent to Prison, or to goe upon Murderer. Baile

Cap. 23. Bail, till the year and day be past. See 3 H. 7. 1
 Bail. These Persons, and for these Offences follow-
 Sect. 3. ing, are not to be bailed at all. Such as are in
 Bail. Prison for Treason, the death of a man. But
 Who is bailable, and how. some think a man is bailable, in case of man-
 slaughter, and then much more in cases of less
 Offence, as *Se defendendo*, &c. Such as are in
 Prison on Executions. Cap. *Ut legat. Excommuni-*
cationis. On Proceſs of Rebellion out of Chan-
 cery. Or any Proceſs on an Action personal.
 Trespasses in the Forest, Vagabonds, or by
 some speciall Commandment from the King his
 Counsel, some speciall Justices for speciall
 cause, felonious Burners of houses. 3 Ed. 1. 15.
 23 H. 6. 11. 5 E. 3. 8. 2 H. 5. 2. He that hath abjured
 the Realm, he that breaketh Prison, he that is an
 Approver or Apellor, one appealed by an Ap-
 prover: but if he be no common Thief, nor de-
 famed, he may be bailed after the death of the
 Approver. They that conspire to indict another
 for Felony, they that are convict of *Rediffelsm*,
 Conjurers, the Felon that confelleth the Felo-
 ny, is taken in the manner, or known to have
 done the Felony, or is a known and defamed
 Felon, or is attainted for the Felony, especially
 if it be the killing of a man, and the *Mitimus*
 expresse the Commitment to be for Felony con-
 fessed. Cook 4 Part Inst. 178. He that is accessory
 to a Felony after the Principal is attainted, ex-
 cept he plead not guilty, or other Plea. But be-
 fore he is attainted, *contra*, especially if he be of
 good fame. He that is convict of Felony, pray-
 eth Clergy, and is reprieved. For when a man is
 bailed, he should be bailed before it appear
 whether he be guilty or not. Not in case of
Maithm, when it is great. But

But these persons offending in these cases, may be bailed, (viz.) such a one as doth commit *petit larceny* after hee is indicted, if this be the first offence. So also a man may be bailed if the stealing bee above twelve pence. So the principall in Robbery or Burglary. So hee that is taken upon a light suspicion, charged with receipt of theeves, or other Felons, or being accessory to Felony, or with a trespassse that toucheth not life or member [if it be not prohibited by some latter Statute.] So he that being indicted of Man-slaughter, is acquitted: he that is indicted of Murder or Man-slaughter at the Kings suit, and quit, isailable during the yeare. Such as are imprisoned by procelle out of Sessions, upon penall Lawes not forbidding baile. But if it be on an indictment of trespassse, he may bee bailed by one Justice of Peace. So such as are charged with Homicides, which are not Felony. All these may be bailed.

1. In most of the Cases before, the Justices of Peace have the power of imprisonment, and by their Authority it may bee done. And their Warrant is sufficient to enable them that doe it.

Sect. 4.
The power and duty of Justices of peace herein out of Sessions.
About imprisonment.
Peace.

2 In all Cases where an inferior Officer of the Peace may *ex officio*, or another man that is no Officer, may imprison a man for any matter of the peace, a Justice of the Peace may much more imprison him.

3 If the Sureties doubt of the escape of the Prisoner bailed, a Justice of Peace upon Prayer may discharge the Sureties, and commit the party to prison; or he may cause the party bailed to finde better Sureties.

Commitment.

Cap. 23.

Commitment.

Refusers to be bound over.

Sect. 5.

About the baile or deliverie of prisoners. Discharge.

Escape.

4 It is thought in all cases, that where the Justice of Peace hath power to binde over a man, or to cause him to doe something, and he be in presence and refuse it, that hee may imprison him till he doe it.

5 Where the Justice of Peace doth imprison by the power of any Statute, he must take heed he doe pursue his authority by the Statute.

6 The Justices of Peace may in no case deliver and discharge any that are accused of Felony before them, though the case appeare never so cleare; but they are to binde over the Witnesses to prosecute and give evidence, and commit the parry suspected to prison, or take baile of them to appeare at the Sessions or Assizes. And they must take heed how they baile Felons; For some have held that they are notailable but at the Assises: And to baile one notailable, is a negligent escape.

7 But it is not doubted, but that they may baile these offenders in these cases following, (viz.) One Justice may baile him that is arrested by a Sessions Processe upon an Indictment of an ordinary trespass. And he may grant a *Superseas*. So if any man be imprisoned for a lesser offence, than Felony, or for the suspition of such offence one Justice of Peace may baile him, except it be forbidden by any speciall Law, 3. H. 7. 3. *Dalt. J.P. in ch.* 12. As he that blasphemeth the Sacrament of the Lords Supper, cannot be bailed to the next Sessions, by lesse than three Justices of Peace, 1 *Ed. 6.* 1.

8 But there must be two Justices, *Quorum unus*, to baile a man that is charged with Felonic:

lonie : And they two must bee together at the time of the bailment, and before they bail him, take his examination in writing, and this with the baile and recognizances for witnesses, they must certifie to the next Gaole-delivery, 1 R. 3.3. 3.H.7.3. 1 & 2.M.13.

And though the offence appeare to be *Se defendendo*, or the like ; yet it is not safe for one alone to doe it.

9. The Justice of Peace is not to baile, but in cases which he may heare and determine. 1. & 2 Ph. & M.ch. 3.

10 When he doth bail, especially if it be for Felony, he is to see he have good baile : It is requisite they be two Subsidy men.

He that is under arrest for Felony, is a prisoner as well without the prison as in the stocks, in the high-way, or in the possession of him that arrested him, or hath the keeping of him.

Seff. 6.
Prisoner
and prison.

Howbeit the Sheriffe or Gaoler may imprison in their own Houses, or common Gaole, at their pleasure ; yet the proper prison for the Justice of Peace is the common Goale. But he may for the safe keeping of a prisoner a little while till they may have help to carry him to Gaol, commit him to the Stockes, &c. But the Justices of peace may not make their own or others houses a constant prison. Yet in some cases where the Law doth appoint for some speciall offence, a speciall prison, as the House of Correction, there they must be sent to that prison. And in some cases the Justice may commit to safe custody according to his discretion. And if the Gaoler refuse the prisoner, hee may bee kept any where till they can bee delivered of him. *Dalt.*

gaoler re-
fuse the
prisoner.

Cap. 23. 7. P. ch. 118. 5. H. 4. 10. Coo. 9. 119.

If one offend in one County and flye into another, and he be taken there, hee must bee imprisoned where he is taken. But if he get into that County by escape from the Officer, hee may in a fresh pursuit take him and bring him back to his own County.

Sett. 7.
Charge of a
prisoner sent
to Gaol.)

If the prisoner committed by a Justice of Peace for any offence, be of any ability, he is to beare his own and their charge that wait upon him. And if he refuse, any one Justice of Peace may give Warrant to the Constable to distraine his goods, and after appreismment by foure of the Parish, to sell them, rendring the overplus, 3. Jac. 10. 13.

In this Gaole he is to be kept close and sure; and for this, if need be, he may put Irons upon him. And if the Gaoler doe not keep him so, he may be punished.

Sett. 8.
When and
how he shal
be impriso-
ned.

Where a Statute doth appoint a set time of the taking and keeping of the offender, there that time shall be observed; but where no time is set, it shall be presently, and cannot be afterwards, as in the case of Force. When it appointeth an imprisonment, and saith not how long, it shall be during the pleasure of the Court. If it be during the pleasure of the Judge, it seems the prisoner cannot be delivered till he declare his pleasure. But if imprisonment by Justices of Peace in all cases (except for the Peace, Good behaviour, Felony, or higher offences) is but till the offender hath made his Fine, which when he hath paid, or given security for, he is to be discharged.

Of Rates and Assessments.

Touching this point these things must be known. *Sec. 1.* 1. In making of Rates it is fit, before hand to give publique notice.

This in Church Rates was necessary before the last Ordinance was made, then if the Parishioners will come they may, if not the Officers may make them themselves. 2. The Rates, if they be Parish Rates, must not go farther than the Parish. 3. For the most part and in most Cases, all sorts of men, and all kinde of Estates, and all kinde of Land are to be rated. 4. For the Rates of the Poor (by the Rules whereof most other Rates are made.) 1. Every Inhabitant, Parson, Vicar, and other, and every occupier of houses, lands, Tithes impropriate, Propriations of Tithes, Cole mines, and saleable under-woods are to be rated. In which these things are to be heeded. 1. A man may be rated to the Poor though he have no land in the Parish. 2. By saleable under-woods are not meant Timber, but any Wood for fire, albeit it be not cut in thirty or forty years (as the Beech wood of many Countries) 3. Woods are to be proportioned to a yearly benefit, so that if a man have a hundred Acres in a Parish it must be cast what it will make him to continue, and according to that he must be rated. So Mines are to be considered, what profit clearly they do bring in yearly. 4. It is thought fit in rating Impropropriations where the Parson hath the Tenth of the Parish, that he

Poor.

Cap. 24. bear the Tenth of the Rate. 5. Ancient Demefne Land, Guildable, and Copyhold land are all to be charged. 6. Mens Lands are first to be rated. And then some respect is to be had, (but with much caution) to mens other visible ability of stock, of Cattell, Corn or Grain upon their Land, or of Goods, as household stuff, Cloth, or other Merchandizes, Malt, or the like in his house. For that a man that hath a house bravely furnished, and a hundred pounds to it, fully stocked, and hath a thousand pounds in Cloth, Malt, or the like, in his hands, to pay no more than him that hath a house with bare walls, and a hundred pounds with scarce any stock upon it, seems most unreasonable. But for mens invisible Estate of money, &c. in respect of the incertainty of it, it seems no Rate may be set upon it, for so was it *Resolved by the Judges. 5. Car.* Yet if a man be known to have an Annuity of one hundred pounds a year, or one thousand pounds lying in such a mans hands, for which he receives Interest, and it may be is all his Estate, let it be well considered why in so clear a Case he should not be rated proportionably. And when a man is rated for stock or Goods, it seemeth reasonable to set it after the proportion of Lands, *viz.* that one hundred pounds in stock be rated after five or six pounds a year. 4. Every mans Land must be rated to all Rates according to the quality and yearly value, or by the pound, and not according to the quantity and content, as the Yard, half Yard, or the like. 5. He that doth occupy Lands in his own hands lying in severall Parishes, must be charged in every Parish for his Land there, only proportionally, and no more. But for all a
mans

mans personal Estate, it seems reasonable he should be charged where his person is. 6. The Farmer is to be charged for his Land he hath in Lease, not the Leasor. 10. The Lord or Leasor is not to be charged for his Rent he receiveth for his Land, because the Tenant is chargeable for the whole Land. 7. In the making of the Rate respect is to be had not onely to a mans ability, but also to the advantage he hath by the thing, for which the Rate is made. 8. In some Cases a man may be rated beyond his ability, as where one brings a Charge upon a Parish, or the like. 9. In all Cases of Taxes for the Convey of Rogues, County-stock, common Gaol, house of Correction, and other things where the Law doth give no direction, it is best to follow the Rate for the Poor, and the Custome of the place. And so have the Judges given direction.

For the doing of Workes for the Common-wealth, as amending of Churches, High-ways, &c. Bridges, Sea-banks, or the like, the *major* part of a Parish agreeing by a by-Law may binde the rest disagreeing. 10. Any Rate by an universal Agreement of Parishioners will binde them, and so they may appoint one to collect it, and distrain for it. *Dalt. J. P. cap. 52, 53. Cook 5. 57. 67. 10. 139. 9. 104.* 11. Where a Statute appoints a Rate to be set upon every Inhabitant, it must be so set upon every person that every one may bear his own Burthen, and not upon the Parish, &c. so that one may be distrained for the rest. *Cook 2 Part of his Inst. 704.*

If the Parishoners of any Parish, Constables, and Church-wardens cannot agree in the Distribution of the Rates of the Justices of Peace made

Seet. 2.
The power
and duty of
Justices of
Peace here-
in out of
Sessions.

Cap. 23. made at Quarter Sessions for the Kings Bench, Marshallcy, Hospitals, losses by Fire, &c. then any one Justice of Peace living in, or neere the Parish, may set the rate. And in case they neglect to levie it, any one Justice of Peace may require it to bee levied by distresse and sale of goods. And in default of distresse, he may send the party to prison till he pay it, 43. *Eliz.* 2.

Warrant.

Commitment.

2 The like (save onely commitment) may one Justice of Peace doe in case of default by the Parishioners, Churchwardens, &c. for the Rate set by the Iustices of Peace in Quarter Sessions for the reliefe of maimed Souldiers and Mariners on 43. *Eliz.* 3.

3 There must be two Iustices of Peace (and any two may doe it) to make a rate upon the place, and by Warrant under their hands and seales, to cause it to bee levied by distresse and sale of goods, or by imprisonment in case of lack of distresse, to relieve them that are sicke of, or shut up for the plague. And for this purpose, upon a Certificate of two head Officers of the place, (if any bee there) to two Iustices of Peace neer the place, otherwise without a certificate to rate all places within five miles, and to cause it to be levied as before to bee disposed by the same Officers; or where none such are, by the Iustices of Peace. And to fine in ten shillings the Officer that is negligent, 1 *Jac.* 31. 21. *Jac.* 28.

Plague.

Poore.

4 There must be two, *Quorum unus*, to rate other Parishes in the Hundred for reliefe of the places that are not able to maintain their poore. 43. *Eliz.* 2. So also there must bee to tax the Hundred for reliefe of poore Souldiers and Mari-

Mariners that come from Sea, to set them on work, and to maintain them if they cannot have have work where they dwell. And this they may doe according to their discretion, 39. *Eliz.* 17.

5 So likewise there must be two such Justices in or neer the Hundred charged (where the Robbery. Robbery was done, and where neglect of pursuit is (for those two Hundreds must bear it) to rate the Hundreds for the raising of money lost by a Robbery, when it is levied of one or more of the Hundreds, which they are to doe according to their discretion. And this is to be proportioned by the Constables of every place, and levied by them *ex officio* by distresse and sale of goods. 27 *Eliz.* 13. and the money delivered to a Justice of Peace, who must pay it to him that hath right to it.

6 The Justices of Peace may in their discretion set downe at what Rate Beer-brewers and Ale-brewers shall sell their Barrels, Kilderkins, and Firkins of Beere and Ale. And this *rigore juris*, it seems may be done out of Sessions. But it is best to doe it there, 23. H. 8. 4. Brewers.

7 There must bee foure, *Quorum unus*, to make Rates for Bridges. Cook 2 part of his *Inst.* fol. 703. 22. H. 8. 5. and for *Chepstow* Bridge, by 3 *Jac.* 23. Bridges.

8 Any one Justice of Peace may allow of and confirm under his hand, a Rate that is made by the Constables and Churchwardens, and two or three of a Parish where he is taken for the conveying to Gaole of a prisoner that is sent to Gaole by a Justice of Peace for any offence, and cannot beare his owne charge. And by Warrant charges to carry a prisoner to Gaol.

rant

Cap. 25. Warrant to the Constable, or other Officer cause the same to be levied by distresse and (after appreislment by foure of the Parish) by sale of his goods, rendring to him the over-plus, 2 *Fac. 10.*

As touching which, these things must be knowne: 1. That in case the prisoner hath no goods or chattels, or none to be found in the County, there must be a rate made. 2. This rate is to be made indifferently by the Constables and Churchwardens, and two of the inhabitants of the place where he is taken, or in default of the Constables and Churchwardens by foure of the principall inhabitants of that place. 3. It seemes to be compulsory, for the words are, *A Rate shall be made*; and therefore if they do it not, it seems the Justices may by Warrant require them. 3 *Fac. 10.*

What they may do about rates for the poor, see *Poor.*

C H A P. XXV.

Of Weights and Measures.

Sec. 1.

IN this these things must be known: First There must be but one Weight and one Measure, of Corn, Wine, Beere and Ale, and one Yard through the Realm, and this must be according to the Standard in the Exchequer.

2 The *Troy* weight (which hath to the pound twelve ounces, or twenty shillings Sterling) and *Averdepois*, which hath sixteen ounces, or 25. shillings.

Shillings sterling to the pound are both allowed, viz. the Troy weight to weigh Gold, Silver, Pearl, pretious stones, Silk, Electuaries, Bread, Wheat, and all manner of Corn and Graine. The Averdepois to weigh all kinde of Grocery Wares, Physical Drugs, Butter, Cheese, Fleth, Wax, Pitch, Tarr, Tallow, Wools, Hemp, Flax, Iron, Steel, Lead, and all other Commodities, not before named, especially every thing that beareth the name of *Garbell*, and whereof issueth a refuse or waste. *See more in Dalt. I.P.c. 65.*

And to every hundred Averdepois weight is allowed twelve; so the hundred weight is a hundred and twelve, the half hundred 56, Quart. 28. 3. Bushels and other Measures of Corn differ according to Places, and so do Yards or Poles, and the Custome of the Place is regularly to be observed, so that if one buy a number of Bushels, or Poles, it shall be according to the measure of the place. The measure of Corn shall be striked, without heap, but the water measure within ship-board is five Pecks striked. 4. Wine is sixteen Gallons and a half to the Rundlet, and thirry and two and a half to the Barrell, sixty three to the Hogshead, a hundred twenty six to the Pipe, two hundred fifty two to the Tunn. Beer nine Gallons to the Firkin, eighteen to the Kilderkin, thirty six to the Barrell, Ale and Beer, eight to the Firkin, sixteen to the Kilderkin, thirty two to the Barrell, sixty three to the Hogshead or Quarter. 5. And Coopers must make their Vessels of this measure, or set mark upon them where they be otherwise. And the Brewer must sell by these measures, and not otherwise. But Ale and Beer must be sold by one measure,

Cap. 25.

measure, Wine by another. *Dalt. Just. P. 184.*
 6. Four Inches are a handfull, twelve a Foot, three Foot a Yard, three Foot and nine Inches an Ell, five yards and a half being eighteen Foot and a half make a Pole, Rod, or Pearch; and yet it is more in some places, twenty one, in some twenty four Foot. As for the Assize of Bread and Bakers these Rules must be kept. 1. It must be weighed by Troy weight. 2. It must not be weighed after seven dayes. 3. He must sell thirteen pence for twelve pence to Victuallers that retail. 4. He must have a mark for his Bread. 5. Every sort of Bread shall be weighed according to the price of the middle sort of Corn. 6. There are three sorts of Bread to be sold, white, wheaten, and household, besides horsebread. 7. The Bakers of Burroughs, Cities, and Corporate Towns shall have six shillings for the baking of a Quarter of Wheat, over and above the second price of Wheat in the Market, others in other places shall have 4. shillings. 8. Strangers Bread must weigh six ounces in the peny Loafe more than Town dwellers. 9. Three horse-loaves must be sold for a Peny, thirteen to the dozen, and every Loaf must weigh a Peny white Loaf. 10. Bakers and Brewers if they offend may be amerced, if grievously or frequently the Baker may be judged to the Pillory, the Brewer to the Tumbrell, 7. Cucking-stool, but this must be in the Sessions. *Dalt. J. P. 181.* For Millards these Rules are to be kept. 1. The Millards Toll-dish must be according to the Standard. 2. He is to have the twentieth or twenty fourth part, and in some places more. But he ought to have but one Quart for grinding one Bushell of hard Corn,

Millards.

viz. Wheat, Rie, and Maſlin; and if he fetch it, and carry it, two Quarts; and for Malt he is to have but half ſo much as for hard Corn. 3. Millards ought not to be common Buyers of Corn, to ſell again either in Corn or Meal.

In the principal Shire Town of every County there ought to be in the cuſtody of the chief Officers thereof Standards of Braſs for Weights, and Measures, according to the great Standard, by which all other Measures of the County ought to be regulated.

2. In every City, Burrough and Market Town there ought to be a common Measure according to that of the principal City, *ſub pœna* ten pound to the City, five pound to the Burrough, and ſourry ſhillings to the Market Town for their defaults.

3. The Officers of the Shire Town are to ſeal ſuch Weights and Measure as are offered to them.

4. None may uſe in Trading any Weights or Measures not ſealed as before under pain to forfeit the value of the Goods weighed; two years Imprisonment, and *quatreble* Damages. 12 H. 7.

3. 11 H. 6. 8. 8 H. 6. 5. 11 H. 6. 8. 27 Ed. 3. 10. 13 R. 2. 9. *Dalt. Inf. 65. Cook 4 Part of his Inf. 274. 273.*

1. Any two Juſtices of Peace *Quorum unus, Sect. 2* may after Examination of the Offence fine according to diſcretion, ſuch as buy and ſell by unlawfull Weights and Measures, or ſell with Measures unmarked and unſealed according to the great Standard. But ſome think this cannot be done but at a private Sessions. 11 H. 7. 4. *Dalt. J. P. 177. 193.*

The power and duty of the Juſtices of peace out of Sessions herein.

2. Some

Cap. 26.
Clerk of
Market.

Some or one of them may and ought to sit with the Clerk of the Market to see that he doth
1. Not seal any Weight or Measure more than once. 2. That he take nothing for sealing after the first time. 3. That he take no money for any Bills, &c. 4. That he do all by the great Standard.

CHAP. XXVI.

Of High-ways and Bridges.

Señ. 1
High-ways,
Constables,
Church-wardens.

IN this, these things are to be known. 1. That the Constables and Church-wardens [under pain to be fined at the Quarter Sessions] are the *Tuesday* or *Wednesday* in the *Easter* week to call their neighbours, and choose two Supravisors for the amending of the High-ways leading to Market Towns. And they are to order this work. And if either of them chosen refuse or neglect his duty in this Office, he forfeits twenty shill. a time. *Stat. 2 & 3 Ph. & M 8.*

Kings high-ways.

For the discovery of the duty of these Officers and the Law in this point: these things are to be known. 1. That they have to do with no ways but the ways called the Kings High-ways. And so it hath been resolved by the Judges in the upper Bench, for the Statute is *High-ways leading to Market Towns.*

2. The Constables and the Church-wardens of the Parish are at the time of chusing of these Officers to name and appoint six dayes to be before the Nativity of Saint *John the Baptist* then
next

next following set apart for the amending of the High-ways; and they are to give notice thereof the next Sunday after in publique in the Church. And this being done, these Officers, viz. the Surveyors of the High-ways are to see that the same be observed, and that all the Parishioners do their Work on the same dayes in manner as followeth.

Cap. 26.

Notice.

Surveyors.

3. Every person having a Plow-land in Tillage or in Pasture in the same Parish, or keeping there a Plow or a Draught shall finde and send one every day to the place appointed, one Wain or Cart provided after the fashion of the Country, with Oxen, &c. fit for the Carriage, and with necessary Tools fit for the Work, and with two able men, and then and there these men must do such Worke with their Plow, &c. as they shall be appointed to do by the Surveyors aforesaid, by the space of eight houres on every of the said dayes, under pain to forfeit for every Default ten shillings. And every other Housholder, Cottager, and Labourer of the Parish, (able to work, and being no hired Servant by the year) must by himself or some other able man be then and there ready to work, and work every one of the said six dayes by the space of eight houres, as they shall be appointed by the said Surveyors, under pain to forfeit twelve pence for every day they shall make default herein. In the explication of which Branch these things are to be known.

1. That a Plow-land is not of any certain content, but ordinarily so much as one Plow may plow in one year, which in some Countries is more, in some less, according to the heaviness of the Soil.

L

2. That

Plow-lands

2 That so many Plowes as men usually have and use in the Summer about their owne businesse, so many they are to bring with them to this work. So that (for example) if a man with one Plow and five or six Horses, shall Plow seven or eight score Acres of arable land, and shall usually goe in the Summer time with two Carts, or Draughts; in this case it seemes he is to come with two Carts, or Draughts to this service. And he that occupieth forty or fifty Acres of land, and keepeth onely three Horses, and one Draught, or Cart, hee is to come with one Draught, or Cart.

3 If a man keep onely two Horses and a Cart for his own businesse: in this case, it seems hee is to come with his Cart and two Horses, provided with a man, or men, to mannage them.

4 He that hath a Plow-land, and hath no Plow, but doth suffer his land to lie fresh, yet is to finde and send a Plow to this worke. And so it was agreed by the Judges in the *Kings Bench*, *Mic. 21. Fac.*

5 A Plow-land may contain House, Medow, Pasture, and Wood: and therefore if one have so much of this as will keep a Plow, yeeld tillage for it, if part of it were eared: in this case it seems hee is bound to send his Plow, or else to pay for the same the penalty appointed by the Statute for his neglect.

6 Hee that keepeth a Plow or Draught for carriage, albeit hee occupy little or no land, or pasture in his owne hands, yet such a one is bound by the Statute to send his Plow to this service.

7 He

7 He that occupieth a Plow-land, lying in tillage or pasture in severall Parishes, shall bee chargeable to the amending of the High-ways in the Parish where he dwelleth, as far as any person having a Plow-land in any one Parish, is chargeable.

8 Every person keeping in his hands and possession, divers Plow-lands, shall be charged to finde in each Town or Parish, where the Plow-lands, being in his occupation, doe lye, one Cart, &c. furnished for the reparation of the High-ways in the severall Parishes where his land doth lye, as if he were a Parishioner dwelling in the Parish where the Plow-land doth lye.

4 If man bee chargeable but as a Cottager, yet if he be in the subsidy five pounds in goods, or fourty shillings in lands, so long as he stands at that rate, he is to send two able men to the work every one of the fix dayes.

5 If the Surveyors shall thinke any of the Plowes or Carts to be needlesse any of the days, they may spare them, and in stead thereof require two able men, the which must come, under pain to forfeit twelve pence a man for every default.

6 These Officers must see the work be done according to the direction of the Statutes, and every man is to see that he doth his part therein. But if the Surveyors themselves shall license any man to doe lesse than his work, this will excuse him.

7 The owners of the grounds adjoyning to the High-ways, are to take care that all the Fences, Hedges and Ditches next adjoyning on either

Hedges and
ditches next
the High-
ways.

Cap. 26. either side of the same be from time to time di-
ked, scowred, repaired, and kept low; and that
all the Trees and Bushes therein be cut down
under pain to loose for every default ten shill.
And if any man hath any Ditch in his own
Ground, that doth serve to lead away the water
out of the High-way, and he doth not scowre
and keep the same clean, so as to convey away
the water, he shall forfeit for every Rod not so
scowred twelve pence. And if any man that hath
a Ditch lying by the High-ways side doth cast
the same up into the High-way, and then suffer
the same to lie there by the space of six moneths
to the annoyance of the High-way, he shall for-
feit for every Load so cast up twelve pence.

Nuſance.

8. These Officers may if they see cause for the
amendment of the High-ways take and carry
away so much of the Rubbish and smallest bro-
ken stones already digged of any mans Quarry
lying within the same Parish, without leave of
the Owner, as they shall think needfull: but they
may not without licence dig in any mans Quar-
ry for new stones, much less take away any mans
stones already digged. And if there be no such
Rubbish to be found in any such Quarry within
the said Parish, then may they enter into any mans
severall Ground (within the Parish) lying near the
place where the wayes are decayed, and there if
they see hope of finding materials fit for Repa-
ration thereof, may dig a new Quarry without
any leave of the Owner of the Ground; or they
may enter upon any mans Ground, and gather
the stones that lie dispersed there. But they
may not without leave dig for any new Quarry
in the house, garden, orchard, or meadow of a-
ny

ny man ; nor (albeit it be in another Ground) dig more than one pit, and the same in breadth or length not above ten yards over at the most. And then also they must take care that the same be within one month after filled up again at the Charge of the Parish, under pain to forfeit five Markes to the Owner of the Ground. And if there be any Spring, or water in the High-way, that doth annoy the High-way, they may turn the same out of the High-way into any mans Ditches, according to their discretion.

9. They must within one moneth after any default is made in any of the particulars aforesaid present the same to the next Justice of Peace, under pain to forfeit fourty shillings for every neglect.

10. If any man offend against the the Statute of 2 & 3 Phil. & Mar. 1. If the Constables and Churchwardens shall not make a due Election of these Officers, and set down, and give notice of the Times and Dayes for the Work. Or if the Surveyors do not look to, and order the Work ; or the Parishioners do not wait upon the Work as aforesaid in all these Cases, the Offender may be punished by fine or amercement in the Quarter Sessions, or Leet, according to the discretion of the Justices of the Peace, or the Steward. And these Fines and Amercements are to be levied and imployed by the high Constable. And if any man offend against the Statute of 5 Eliz. 1. If these Officers after they have digged in any mans inclosed Ground shall not fill the Pit again, or if they shall not present the Defaults to the next Justice of Peace, as aforesaid, or if any of the High-wayes shall be un-repaired, or the

Cap. 26. Owners of Ground shall not cut up their Bushes, and scowre their Ditches adjoining to the High-way; in these Cases, the Offender may be punished by Fine at the Quarter Sessions according to the discretion of the Justices of Peace. And these Fines are to be levied and employed, as Fines and Amercements levied upon the Transgressours of the former Statutes. And if any man offend against the Statute of 18 *Eliz. cap. 9.*

i. If any man cast Soil into the High-way, and do not remove it within the time aforesaid, or do not scowre their Ditches, &c. and cut down their Bushes in the High-ways; the Forfeitures of these men (being set downe in certaine by the same Statute) may be levied by these Officers immediately by Distresse and sale of the Offenders Goods upon a Warrant sent from the Justices of Assise, Justices of the Peace, or Steward of a Leet before whom the same persons shall be convict. And if they be negligent, and do it not within a year, then the Constables and Church-wardens of the place may levie the same, as money is used to be levied upon an Amercement in a Leet.

Inclosure.

11. Such as make Inclosures next the High-way, must amend the way next the Inclosure, otherwise it must be amended at the Charge of the Town.

12. High-ways leading from Market to Market should have neither Dike or Bush wherein Thieves may lurk, within two hundred Foot of either side.

13. The Lord of a Park that doth inclose must set out two hundred Foot on each side, from the way, or a sufficient Wall, or Ditch, or a Hedge, that

that the offenders may not escape. *Dalb. J.P. in Cap. 26. ch. 26.*

14. The Bailiffe or High-Constable must le-
vie the Amercements estreated for these offen-
ces, make a true account, pay the remaining
money to the Constables and Church-wardens
of the Parish, who must imploy the same on the
High-wayes, *sub pœna* five pounds. And if they
refuse to account or pay, they may bee impriso-
ned till they doe it.

Account

Commit-
ment.

15 It seemes these Statutes extend not to
common Bridges, and that there is another re-
medy for them, which followeth. *Co. 2. part of
his Instituts. 701.*

16 If the offender have been punished in a
Leet for that herein whereof they have Conu-
sance, the Justices are not to punish him.

17 If all this labour appointed by the Sta-
tures to be bestowed on High-wayes, be not suf-
ficient for the amendment thereof, the Parish
must supply it: For the Parishioners of every
Parish are to looke to their High-wayes, that
that they be well repaired and kept, at their pe-
rill; for an information or an Indictment may
be (by the very Common Law) preferred for
the King against the Inhabitants of a Parish, for
not repairing of their High-wayes; and there-
upon they may be fined to the King: and in
this case the fines shall not go to the use of the
High-wayes, as the forfeitures and the penalties
for the breaches of the Statutes shall doe.

Indictment.

By common right common Bridges are to be
repaired by the whole County; for it is for all
their ease. 2. Those and their Ancestors,
who time out of minde have been used to re-

Bridges,

Cap. 26. paire Bridges, must doe it, and may be forced to it. And thus a man may bee charged either *ratione tenurae*, for that there those whose estate they have in that land, have been used to do it. Or by *Prescription*, that such Bodies politick or corporate, have been used time out of minde to do it: For otherwise they that have lands adjoining, are not bound, But a voluntary making will not charge a man to doe it. 3. If it cannot be known what person or place should doe it, it must be done by the places thereabouts, by order of foure Justices of the Peace. 22. H 8. 5. 4. A Bridge lying in a Corporation, or Franchise, the Hundred or Guildable shall not be chargeable with it, *et sic e converso*. 5. If the Bridge lie in two severall Counties, or other Divisions, both Counties must contribute towards it. *Dalt. f. P. ch. 13.* 6. They that are to reparaire a Bridge, are to amend the way at both ends of it for three hundred foot. *Cook. 2 part. f. 700.* 7. The remedy if it be not amended, if it be a privat Bridge to a Mill, &c. where another hath a way, must bee by the Writ *De ponte reparando*. But if for the publick, it must be by presentment before Judges of the *Kings Bench*, Justices in *Eyre*, or Commissioners of *Oyre and Terminer*, or Justices of Peace, as followeth, *Cook idem*. 8 Foure Justices *Quorum unus*, may enjoyn the Countie to doe it by a Rate on every man without exception, which must be in Parchment in every Hundred, under the the Justices Seales, and then delivered to the Collectors, who afterwards may distrain for it *ex officio*, in any place within the Hundred; and this one of them may doe with the consent of the other.

Rate

Any

Of High-wayes and Bridges.

153

Any one Justice of Peace may present to the Sessions any default of the High-wayes upon his own view; and this presentment is of as much force as if it were found by a Jury; but it is traversable. And he may take the Presentment of the Supravisors of the High-wayes, or any under-officers touching any default about them. And this hee must return to the next Quarter Sessions. Also he may cause High-wayes to be enlarged, and cleansed of trees & bushes, according to the Statute of *Winchester*. But there must be two, *Quorum unus*, to compel and take the Accounts of any Officers that have received any forfeitures for any offence about the High-wayes upon the Statutes, and to imprison them till they doe account or pay the money in their hands.

Cap. 26.

Se^{ct}. 2.

The power and duty of the Justices of peace out of Sessions herein. Presentment. Certificate.

Commitment.

And there must be foure, *Quorum unus* (and where are not so many it cannot be done) who with the Constables, or two of the inhabitants of every Parish (and without their assent it cannot be done) may tax the inhabitants in any places within the Shire, for the repairing of a Bridge, or the High-way within 300. foot of it, when it is unknown who ought to reaire it, 5 *Eliz*. 13. 18 *Eliz*. 9. 3 *M*. 8. *Cook* 2 part. 701.

Rate.

And they may appoint two Collectors to gather the money, and two Surveyors to looke to the worke and give account of it, and of the money, and give them allowance for their pains, and call them or their Executors or Administrators to account. But it is said, that the safest way of doing this, is at the generall Sessions, *Co*. 2 part of his *Inst*. 705. Foure of them, *Quorum unus*, having made the rate for *Chepstow* Bridge,

Collectors.

Chepstow Bridge.

may

Cap. 27. may make Collectors and Surveyers for the gathering of the money and oversight of the work. And if any of them, their Executors or Administrators, refuse to account, they may compell them to it, and to pay over the money in their hands, or commit them to prison till they doe so, 3 Jac. 23.

C H A P. XXVII.

Of Warrants and Processe.

Sect. 1.
The power
and duty of
Iustices of
peace herein
out of quar-
ter Sessions.
To whom.

Riot.
Affray.

Warrant by
Word.

Warrant in
Writing.

For the better understanding of the Law herein, these things are to be known.

1. That the Justice of Peace may direct his Warrant to the Sheriffe, Bailiffe, Constable, or other Officer, or to any other person he shall think fit, but the best way is to direct it to an Officer.

2 He may by word of mouth give Warrant to one to arrest another in his presence: As if a Riot, Affray, or Threatning be in his presence, he may command any man, Officer or other, to arrest the offenders. But if the party to be arrested be absent, *contra*. For there the Warrant must be in writing under the Iustices of Peace hand and seale, or hand at least. And yet in case of an insurrection, or present danger, the Iustice may by word require men to goe to suppress it, and arrest the offenders. *Dalt. 1. P. ch. 117.*

3. Their Warrants in writing must be with their hands to them, and seals also, where the Statute

Of Warrants and Process.

135

Cap. 27.

Statute speaks of Warrant under their hand and seal, and it is best in all Cases to put their seals to them. *The same.*

4. If it be for the Peace or good Behaviour it must alwayes expresse the cause to the end the Party may bring Sureties with him. But if it be for any great Offence, as Treason, Felony, Conspiracy, Riot, or the like, it need not expresse any Cause, but to say, *To answer to such matters as shall be objected against you on the behalf of the Keepers of the, &c.* which is usuall now. *Dalt. Just. P. in cap. 117.* But much disliked by *Lamb. f. 87.*

For the
Peace.
Good Be-
haviour.
Felony.

5. It must expresse the year and day when it is made. And it is good to set down the place. For a Warrant made by a Justice of Peace out of his County is questionable. But it is clear the Officer cannot carry the Offender out of the County. *Dalt. I. P. cap. 117. 21 H. 7. 22.*

Time.
Place.
Officer.

6. It must be perfect. For it is dangerous to send out a Warrant with a Blank. *Crom. Jur. of Courts. 34.*

Blank.

7. The Justice may make his Warrant (in case of the Peace and good Behaviour) to bring the party before himself. And this is the best Form, though the other forme to say (or some other Justice) is more usuall. *Cook 5. 59. Broo. Peace. 9. Dalt. J. P. fo. 406.* Or he may make his Warrant to attach him, and bring him to the next Sessions to be bound there. And this Warrant they may grant in divers other Cases.

Peace.
Good be-
haviour.

8. The Justice of Peace may by his Warrant require a man to be at the Sessions to give Evidence for the Common-wealth. And if he do not appear, he may perhaps binde him to the

To give in
Evidence.
Good be-
haviour.

good

Cap. 27. good Behaviour, or there may go forth from that Sessions a Precept to attach his Body for his Contempt. *Dalt. I. P. 407.*

To attach
the person.

9. Any Justice of Peace may send his Warrant, 1. To arrest or attach one that hath broken the Peace, or committed other misdemeanour against the Peace, to finde Sureties for the Peace, or good Behaviour, as the case is. *Dalt. J. P. 407.*

To arrest
Felon.

2. Warrants to attach persons suspect of Felony before they be indicted of it, though they seem scarce warrantable, yet being *Pro bono Publico* they are tolerated. *Dalt. I. P. fo. 407, 408.* 3. Justices use to grant Warrants to bring men before, or to attach the Offendor to be at the next Sessions, for not paying Town Rates. *Sed quatenus Warranto. Dalt. I. P. 407.* So they use where a Statute gives a Justice of Peace Power to compell men to do a thing, to call them in before them, that they may take order therein. 4. And where Power is given to any Justice of Peace to hear, and determine, or to punish Offendors, as convict upon their own confession or Examination of Witnesses (which as it seems must be at a private Sessions) and then in congruity they may grant out their Warrants against such Offendors. Or at least may send to them to appear before them to answer the matter, and then determine it. And in these Cases the offence being found by Enquiry they may grant out Process to the Sheriff, or Party, as at the Sessions under their own *Teste*, and fine or commit till Payment, or Bail given, or receive the Traverse of the Offender. *Dalt. I. P. 193.*

To appear.

Fine.
Commit.
ment.

Sect. 2
Upon penal
Laws.

To grant Warrant against Offenders upon Penal Statutes before Indictment (though the Statutes

Reparation, Duties of the Church. 157

Cap. 28.

pute be in the power of the Justice, yet it seems unwarrantable, unless there be a special Power given so to do, as in 5 *Eliz.* 4. 23 *Eliz.* 10. 39 *Eliz.* 1. And yet this is usuall. And after Indictment the Process must be the ordinary Process of the Court. *Dalt. I.P.* 408. 409. But if the Offence by the Statute amount to the Breach of the Peace or good Behaviour, there the Justices may binde him to the Sessions, and in the interim to be of the good Behaviour. And yet see the Resolutions of the Judges upon the Statute of 43 *Eliz.* for the Poor. For thereby it it seems they may send Warrant before Indictments two Justices of Peace *Quorum unus*, upon Complaint of the Parry grieved may make like Process as in Trespass, against the Sheriff, under-Sheriff, or any of his Officers offending against 11 *H.* 7. 13. to appear before them to answer it. *Dalt. I.P.* 166.

Process.

Binde over.
Good be-
haviour.

CHAP. XXVIII.

Of Churches, and the Reparation thereof, and Church Duties.

FOr the better understanding hereof, these things must first be premised. 1. The Parishioners of every Parish where Church-wardens have been made, must yearly meet together on the *Munday* or *Tuesday* in *Easter* week. and then the *major* part of them together must chuse one, two, three, or four of the Parish to be Church-wardens under paine of fourty shillings

Señ. 1
For making
of church-
wardens.

Cap. 28. lings to be forfeited by the Parish to the use of the Poor there.

2. This choise must be allowed under the hand and seals of two of the next Justices of Peace.

Their power and duty in making and levying of Rates.

3. These Officers with the Over-seers of the Poor, or the greater part of them together may make Rates for the raising of money to do that which they have to do in the execution of their Office. And as touching this point, these things are to be known.

1. These Rates are to be made for the Raising of money before there be need, as for the repairing of a Church before it be in decay, and so for the like occasion.

2. They may raise money by Rates, for the buying of Books, providing of Bread and Wine, repairing the Church-yard or Burying place, for the *Kings Bench, Marshalsea*, and the like. And so also it seemes for the Tower or Bells amending, and for the amending of the Church; but the Church to be repaired must be a Parochiall Church, not a Cathedral, or Collegiate Church; nor must the Church be quite down, but onely decayed; for no Rate can be made to build a new Church, nor to mend the Chancel, or Isles, belonging to any other man to repair. 3. They may for these Causes rate every Inhabitant and Occupier of Lands, Tithes impropriate, Woods, or other Hereditaments within the Parish. 4. The Church-wardens must give publike notice in the Church, when, and where they will make the Rate.

5 The Rate must be equall, it must bee therefore upon every parishioner, and not upon some of the parishioners only, and it must be upon every

Reparation, duties of the Church. -159

Cap. 28.

very of them equally, [*viz.*] according to the quantity and quality of their estates and lands within the Parish, wherein they may rate by the Yard, Acre, or otherwise, as they think fit, so as it be equall and according to the true value in an equall proportion.

6 If a man of another Parish occupy lands in that Parish of his own; in this case the Churchwardens of that Parish wherein his land lyeth, may rate him for the Church-payment to that Parish, according to the value of his land; and this albeit there be no house upon it, and albeit the owner and occupier dwell in another Parish: for as to this purpose hee shall bee said a Parishioner, and therefore he may, if he please, come to and frequent the Church of that Parish, as the Church of the Parish wherein hee lives. And where the Landlord and Tenant both doe live out of the Parish, it seemes the Churchwardens may rate either of them at their election. [But some hold that in these and such like cases the rate must alwayes be upon the occupier of the land, and not upon the Landland.) Howbeit in case where the Farmer or occupier of the lands doth live within the Parish where the rate is made, there hee onely, and not the Landlord, shall be rated: For the Tenant is to be rated for the whole value of the land, and therefore the Landlord is not to bee rated again for the rent he doth receive out of the land; for then the land would be twice rated. And in this case there is a Parishioner and Inhabitant chargeable, and receipt of Rent out of the Parish for land within the Parish, by a man that lives in another Parish, will not make him

Cap. 28. him a Parishioner. And yet in case where the Landlord and Tenant both live within the Parish where the rate is made, there perhaps the Churchwardens may rate which of them they please, yet so as they be not both rated for the same thing. But a man that doth neither dwell within the Parish, nor hath land within the Parish, cannot be rated at all towards the Church; and therefore if a Butcher come thither (being a Market Town) to sell meat, and have a fixed Stall there, this will not make him a Parishioner, nor chargeable to the Church.

7 After the Rate is so made, it must be put in writing, and then it will be good to have the hands of the Church-wardens, and so many of the Parishioners hands as are agreeing to it.

8 The Rate made by them, must be confirmed by the two next Justices of Peace.

9 If any man refuse to pay his Rates, the present or subsequent Church-wardens may by Warrant under the hands and seales of the two next Justices, levy them, and all Arrears thereof, and two shillings six pence for the charge.

10 If any man be grieved with the Rate, or any thing done upon the new Ordinance of 1647. He may have reliefe at the next Quarter Sessions.

4 They must within foure dayes after their yeare ended, and new chosen, give account to their successors, and the two next Justices, and pay over the money in their hands to their successors.

5 Iles and Chancels are to be repaired according to the custome; and if the parties refuse, the Church-wardens may by suit to the Justices

Reparation, duties of the Church

161

Cap. 28.

Justices of the Peace, compell them to it, as they themselves are compelled to reparaire the Church.

6 They are to receive and dispose the rents of Lands or Annuities given towards reparaire of Churches, and Church duties, according to the intent of the Donor; every default in any of these things, is twenty shillings to the use of the poor of the place. See more for this in my Book of the Churchwardens office at large.

The duty and power of the Justices out of Sessions, lieth in these things: 1. Two of them are under their Hands and Seales to allow the choyce of Church-wardens made by the Parish. 2. Two of them may and must confirme the Rates duly made by the Church-wardens, according to the Ordinance of Parliament. 3. Two of them may and must cause by a Warrant under their Hands & Seals, to the present or subsequent Churchwardens, 1. To be levied the Rates made, and the Arrears thereof. 2. To be levied all forfeitures for any offence against that Ordinance. 3. To be levied all such money as shall be remaining in the hands of any Church-warden upon his account. 4. To be levied two shillings six pence for the charge upon the persons paying the same, and to deliver the overplus of the distresse. 4. And for lacke of distresse, they are to send the parties that have no distresse, or refuse to pay, to Gaole without baile till they pay it. 5. They may send the Church-warden refusing to account, to Gaole without Bail, till he do account and pay the money in his hands upon account. 6. Two Justices are with the subsequent Church-wardens to take

Se8. 2.
The duty
and power
of Iustices
herein out
of Sessions

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162 *Of Tithes and the Payment thereof*
 Cap. 29.

the account of the old Church-wardens. 7. On Justice upon Information given him, that a Church, Chancel, or Isle is ruinous, may examine it, and upon his own view or a Certificate of the Minister and some of the Parish, appoint under his hand and seal to the Church-wardens, what shall be done, and by what time, for Repair of the Church, and he that is to amend the Isle or Chancel for the Repair thereof, and if it be not done accordingly, binde them over to the Quarter Sessions, where each of them may be fined as the Justices please, not above 40. shill. to the use of the Poor, and committed til he pay it. 8. Upon complaint any two of the Justices may give a Warrant to require the parties to pay it, or binde over to appear at the Quarter Sessions. 9. If the Parishioners or any of them do refuse to pay the Parish Clerk or Sexton duly chosen his due Fees, any of the two next Justices may by Warrant under their hands and seals, order the Parishioners to pay the same. *Ord. Febr. 9. 1647.* 10. It seemes also they may by proof of Witnesses on Oath hear and determine any Offence against this *Ord. of Febr. 9. 1647.*

Sexton or
 Parish-
 clerk.

C H A P. XXIX.

Of Tithes and the payment thereof.

FOr the opening of this, these things are to be known. 1. Every person must fully, truly, and effectually set out, yield and pay all manner of Tithes, Offerings, Oblations, Obvention

f Tithes and the Payment thereof. 163

Cap. 29.

ventions, Rates for Tithes, and all Duties commonly called Tithes, and all Arrears thereof to all and every the respective Owners, Proprietors, Improprictors, and Possessors, as well Lay as Ecclesiastical, respectively their Executors and Administrators of Parsonages, Vicarages, or Rectories, either impropriate, presentative, or donative, and of Portions of Tithes, according to the Law, Custome, Prescription, Composition, or Contract respectively, by which they or any of them ought to have been set out, yielded, and payed at the beginning of this Parliament, or two years before, *Ord. 8. Nov. 1644.* 2. Where any person out of the City of London hath since two years before this Parliament, substracted, or hereafter shall substract, withdraw, or fail in the payment thereof, the party grieved his Executors or Administrators may be relieved by two of the Justices of the Peace, *Ord. 1644.* 3. This Act doth extend to Ministers placed by Authority of this Parliament, *Ord. 9. Aug. 1647.* 4. Ministers placed by the Parliament, or its Power, if in the doing their Office, or receiving their Dues they be disturbed by malignant Ministers ejected from thence, or any others by their means, they may be relieved by complaint to the Justices of Peace, *Ord. 23. Aug. 1647.* 5. If the party ordered to pay Tithes be grieved with the Justices Order herein, he may by Complaint bring the matter into Chancery, and there it shall be re-heard, judged and determined. 6. No Appeal is to be allowed herein, except the party do first lay down in money with the Justices, or in Chancery, the full value of the Tithes adjudged, and treble Costs, not

164 *Of Tithes and the Payment thereof*

Cap.29. exceeding ten pounds, by way of security prosecute his Appeal with Effect, and to render double Costs and Damages to the party delayed in case relief be not given on the Appeal by the Prosecutor, this last Branch is to continue till 1. Nov. 1650. Ord. 20. Oct. 1648.

Sec. 2

The power and duty of Justices of Peace here in our Sessions.

Any two Justices of the Peace nor being Patron or Parties of the Place where the substraction is, nor being any way interested in the things in Question, may out of Sessions 1. Summon the Person complained of before them. 2. Upon default send the Warrant to their Constable or other Officer to summon the Party again before them. 3. Upon a second default, the Summons being proved by Oath, Or upon his Appearance by Oaths of Witnesses, and other Proofs on either side, hear and determine the matter, and by writing under their hands and seals adjudge the Case, and give reasonable Costs and Damages to either Party, as they shall think fit. 4. They may also, if they will, give treble Damages, where the Statute doth allow it. 5. If the Party do not within thirty dayes after notice of this Judgement given to him, pay the Tithes or money so adjudged according to the Judgement, then upon Complaint the same Justices may give a Warrant to the Plaintiff, the Constable or such other person, or persons as the Plaintiff shall name, to distraine and sell his Goods and Chattels to satisfy it, returning the over-plus. 6. If no Distress can be found sufficient to do this, the same or any other Justices may commit him to Prison, without Bail, till he do satisfy it according to the Judgement. Ord. 8. Nov. 1644. and 9. Aug. 1647. 7. If the Officer

Excise and the Payment thereof. 165

Cap. 30.

cer or other person shall not duly execute their Warrants herein, they may fine him fourty shil. or under to the use of the Poor of the Parish, and send their Warrant to whom they please to levie it of their Goods and Chattels. *Ord.* 20. *08.*

1648. These two last Clauses contained in this last Head are to continue but to 1. *Novem.* 1650.

8. If any scandalous or ill affected Minister put out by Authority of Parliament shall enter upon him that is put in his room by that Authority, and either by himself or others, shall hinder the Minister put in of receiving the Tithes and profits, any two Justices may upon proof by Oath of two Witnesses give such Damages as they shall think fit, settle him that is put out in the quiet Possession, raise the trained Bands or Forces to assist them; and in case of Disturbance by them made upon the Minister put in, in the execution of his Office, upon proof thereof by two Witnesses Oaths, commit the Offender to Prison for a moneth for every Offence. *Ord.* 23. *Aug.* 1647.

C H A P. XXX.

Of Excise and the payment thereof.

For the opening of this point, this must be known. 1. That no Vintner, Inn-keeper, Victualler, Ale house-keeper, or other person that doth retail or sell Beer or Ale, may brew his own Beer or Ale, but must take it of the

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common

Cap. 30.

The office
and power
of the Ju-
stices of
peace here-
in out of
Sessions.

common Brewer, unlesse he or some other for him, do first give security to the Commissioners or sub-commissioners of Excise, within whose Limits he is, to pay the Excise, under pain for the first Offence, fourty shillings, for the second Offence, three pounds, for the third, to be disabled to keep such a house during his life, and to be sent to Gaol till he give security never so to offend again, & to be punished as an unlicensed Ale-house-keepers. 2. These Forfeitures must be paid to the sub-commissioners of Excise. 3. All other house-keepers that brew their own Beer must pay their Excise in such sort as the Justices shall assesse it. *28. 14. Aug. 1649.* 1. Any one Justice may and must out of Sessions upon proof by Oath of two Witnesses, or other Evidence before him, that any Inn-holder, Vintner, Victualler, or Ale-house-keeper do brew their own Beer, without first making a Composition, and giving of security to pay the Excise as before, they may cause to be levied by Distresse and sale of Goods fourty shillings for the first Offence, three pounds for the second, twenty pounds for the third, and suppress him and commit him till he give security never so to do again, and the money he doth cause to be levied he must pay to the sub-commissioners of Excise. 2. Any one or more Justices within six dayes after request of the sub-commissioners of Excise may and must by writing under his hand and seal appoint Assessors for every Hundred or Parish, who must set down in writing the number of persons in every Family, and what every person shall pay by the week for Beer and Ale for his Family with his name subscribed, and

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return it to the same Justice or Justices, and within four dayes after returne thereof send it under his hand and seal to the sub-commissioners of Excise, and in case the sub-commissioners or persons rated; except against the Rate within fourteen dayes after it is returned in, the Justice or Justices may send for the parties and Witnesses, and settle it as he thinks fit. And if the Justices do not their duty herein, they may upon proof hereof by Oath before the Committee for regulating the Excise be fined one hundred pounds, and imprisoned. *Act 14. Aug. 1649*
3. All Justices may and must upon request of the sub-commissioners of Excise assist them in the execution of their Office to suppress and punish Tumults and Riots according to Law.

C H A P. XXXI.

Of May Poles.

NO May Poles shall be set up, and if any shall be, they must be taken down forthwith by the Constables and Church-wardens of the place *sub pena* five shillings a week, till it be taken down.

Any one Justice upon view, confession of the Party, or proof of one Witness may give Warrant under his hand and seal to the Constables or Church-wardens of the place where the Offence is done, to levie it of the Parties Goods by Distress and sale, rendering the overplus, and for lack of Distresse to put him in the Stocks three houres. *Ord. 5. April, 1644.*

C H A P.

The power and duty of Justices of peace herein out of quarter Sessions.

Of superstitious Reliques, and the demolishing thereof.

FOr the opening of this, take these things.
 1. All Altars and Tables of stone are to be utterly demolished, all Crucifixes, Crosses, Images, Pictures of any person of the Trinity, Virgin *Mary*, or other Saint were to be defaced. All Communion Tables were to be removed from the East end to some other convenient place of the Church or Chappell. And all Rails about the same, all Tapers, Candle-sticks, about the Communion Table were to be taken down and removed before the first day of Nov. 1643. 2. This was to be done, and the place to be made up again by the Church-wardens at the Charge of the Parish. 3. Otherwise they were to forfeit for twenty dayes default after that time fourry shillings to the use of the Poor of the Parish. *Ord. Aug. 1643.* 4. All Representations of any Person of the *Trinity*, Angel, or Saint in or about any Church or Chappell or other open place whatsoever shall be taken away and demolished. 5. No such must be hereafter set up. 6. The Chancell ground being raised for an Altar or Communion Table must be levilled, and made as it was twenty years ago. 7. No Copes, Surplices, superstitious Vestments, Hoods, or Roodlofts, or Fonts, shall be, or be any more used in any Church, but shall be utterly defaced. 8. No Cross, Crucifix, Picture, or Representation of any Person of the *Trinity*, Saint,

Saint; or Angel shall be, or continue upon any place or thing used, or to be used about the worship of God. 9. All Organs and the Frames and Cases wherein they stand in Churches or Chappels shall be taken down and utterly defaced, and none other shall be set up hereafter in their places. 10. But Images, Pictures, or Coats of Arms in Glas, Stone, or otherwise, in a Church, or other place, set up for the Monument of a King, or other person, not reputed a Saint, is not to be taken down. 11. Church-wardens or Over-seers of the Poor may see this done.

Any one Justice of Peace where these things were before, and were not taken down by the time of the first of Nov. may upon Information to him given cause it to be done at the Charge of the Parish, or if he will, the Church-wardens and Over-seers of the Poor may see it done. And the Justice may cause the Church-wardens to repair it as before at the Charge of the Parish. Ord. May 1644.

The power
and duty of
Justices of
Peace out
of Sessions,

C H A P. XXXIII.

Of Blasphemy and Heresie.

FOr the opening hereof, these things must be laid down. 1. To maintain and publish by preaching, printing, writing, or teaching, That there is no God, that God is not present in all places, or that he doth not know, and foreknow all things, or that he is not Almighty, or

sect. 1.

Cap. 33.

or that he is not perfectly holy, or that he is not eternall, or that either of the three Persons of the Godhead is not God, or that they three are not one eternall God, or that Christ the Sonne is not equall with the Father, or shall so deny the Manhood of Christ, or that the Godhead and Manhood of Christ are severall Natures, or that the humanity of Christ is without sinne, or that shall maintain, as before, that Christ did not die, or not rise from the dead, or is not ascended into Heaven bodily; or shall deny that his death is meritorious in the behalfe of Believers, or that Jesus Christ is not the Sonne of God; or that any part of the Scripture is not the Word of God; or shall so deny the resurrection, or day of judgement. An obstinate maintaining of any of these errors, is Felony.

2. For this the offender, if he be found guilty, and doe not then abjure it, and the defending of it any further, he is to suffer as a Felon, and not to have his Clergy, but forfeits nothing, nor is his blood attainted. 3. If he doe abjure it, he must lye in prison till he have given bond with two sureties, Subsidy men; to two Justices of the Peace, or Judges of Gaol-delivery, not to offend so again. 4. If he then offend againe, he is to dye without mercy. 5. If any maintain and publish, as before, that all men shall be saved, or that man by nature hath free-will to turn to God, or that God may be worshiped in or by Pictures or Images, or that the soule of any man after death goeth neither to Hell nor Heaven, but to Purgatory; or that the Soule of man dieth or sleepeth, when the Body is dead; or that the Revelations or workings of the Spirit

it are a Rule of Faith, or Christian life, though
diverse from, or contrary to the written Word
of God; or that man is bound to beleieve no
more than by his reason hee can comprehend;
or that the Morall Law of the ten Commande-
ments, is no Rule of Christian life; or that a
Beleever need not repent or pray for the par-
don of his sin; or that Baptisme and the Lords
Supper are not the two Sacraments appointed
by the Word of God; or that the baptizing of
Infants is unlawfull or void, or that such per-
sons must be rebaptized, or shall rebaptize any
person so baptized; or that the observation of
the Lords Day according to our custome, is not
according to, or against the Word of God, or
that it is not lawfull to joyn in publick prayer
or family prayer, or to teach children to pray,
or that the Churches of *England*, their Ministers
or Ordinances are no true Churches, Ministers,
or Ordinances, or that the Church government
by Presbytery, is Antichristian or unlawfull, or
that Magistracy is unlawfull, or that the use of
Armes in any case is unlawfull. All these Te-
nants are offences. 5. Hee that is convicted
hereof, if he will not renounce it in the open
Congregation upon the Justices order, he is to
be committed to prison till he finde two sureties
not to doe so again. *Ord. 2. May 1548.*

Any two Justices of Peace upon complaint,
may examine it on oath, and being proved by
two witnesses, or the Parties confession, may
commit the offenders of the first rank to prison,
without baile, and binde over the witnesses to
the next Gaol-delivery. 2. Two Justices may
take bond with two Subsidy-men his Sureties
from

Sect. 2.

The duty
and power
of Justices
out of Ses-
sions.

Cap. 34. from such persons convicted upon the triall, and having renounced the opinion, that he will not so offend again. 3. Two Justices, *Quorum unus*, may likewise so examine the offenders of the second ranke; and finding it, may order the offender to renounce his error in the publick Congregation of the Parish whence the complaint came, or where the offence was done; which if he obey not, they are to send him to Gaol till he give bond with two Sureties, Subsidy men, to them, never to offend so again. *Ord.* 2. May. 1648.

C H A P. XXXIV.

*Of Reliefe to maimed Souldiers, and the
Widowes and Orphans of slain
Souldiers.*

Sec. 1.

THe Souldier maimed or disabled in body for work in the Parliaments service in the late warres before May, 1647. must 1. go to the place where he was settled when he took up Armes. 2. He must get a Certificate of his service and hurt received, under his Captaine or Commissary Officer. 3. Hee may bring Witnesses, or his own Oath, to prove the truth of the Certificate to the two next Justices.

The Justices
power and
duty out of
Sessions.

1. The two next Justices to the place where the maimed Souldier was settled when hee took up Armes upon such a certificate as before, may examine:

3 Iustices of Peace (as it seemes) cannot bind over an offender against a penall Law, referred to their Conuance (but not within the Commission of the Peace, nor committed to the power of any Iustice of Peace) except it be in a speciall case where the Statute it selfe doth enable them thereunto, as 25 Ed. 3. 6. 5 Eliz. 4. 1 H. 7. 4. 1. Ed. 6. 1. Cap. 40. Binde over

4 A *Supersedeas* made by a Iustice of Peace and returned under his seale, is a sufficient record to prove a Recognizance taken for the Peace, and Warrant to call the party bound, and if he make the default, record the same. *Lamb. I. P. 97.* Recognizance.

5. If one be bound by a Recognizance, he must appeare according to the tenor of the same; and if a *Certiorari* come to remove it before the day, this will discharge it. *Dalt. I. P. 237. Lamb. I. P. 336. 386.* Apparance.

C H A P. XII.

Of a *Supersedeas*.

THIS Writ is a Command to stay the doing of that which in appearance were to be done, were it not for the cause whereupon the Writ is granted. As if one swear and desire the peace, the Iustice cannot deny it; but if the party be formerly bound elsewhere, this Writ lieth to stay the Iustice from binding the party. And it comes either from the Chancery, or Kings Bench, or from one or more Iustices of Peace. The Office and duty of Iustices of Peace here in out of Quarter Sessions.

Cap. 41.

Motion in
Court,
Baile.

3 No *Supersedeas* that comes out of the upper Bench, or Chancery, is to be allowed by the Iustices of Peace, but what is granted upon publick motion in the Court whence it issues; and good baile there given. See 21, *Jac. 8*. And unlesse it appeare that the Procelle is prosecuted against the desirer of the *Supersedeas*, *bona fide*, by some grieved in the Court whence it is to come.

3 He that doth doth take Sureties *ex officio*, after a Warrant out, and thereupon grant a *Supersedeas*, must be sure he do it according to the Iustice of Peace Warrant sent out. *Lamb. Just. P. 96. Dalt. J. P. 172*. Where he hath taken Sureties of the Peace or good behaviour, either of his own authority, or a man brought to him by the Warrant of another Iustice of Peace, he may grant this Warrant to all other Iustices of Peace, shewing that he hath given Sureties, &c.

4 Albeit it be good to recite the Sureties Names, and the summe wherein he is bound, yet this is not necessary, 2 *H. 7. 1*.

False imprisonment,

5 If any Officer have any Warrant from a Iustice of Peace to arrest a man to finde Sureties, and shall receive this from the upper Bench, Chancery, or any Iustice of the Kings Bench, or Iustice of Peace of the County, and yet he urge the patty to finde the Sureties, he may refuse to give it, and if he arrest him, have false imprisonment.

6 This doth discharge the Iustice of Peace Warrant to require suretie of the Peace, or good behaviour. If therefore the Iustice receive such command from above, and he have
not

not sent his Warrant, he must forbear to send it; if he have sent it, he must supercede it.

7. If a Iustice, or other Officer, will not forbear after they have received it from Chancery or upper Bench, he may be fined and imprisoned for his contempt: Yea, so it is, albeit the *Supersedeas* be illegal, *Dalt. J.P.f. 207, 208.*

8. If it be sent to the Iustices and Sheriffe, the Iustice may keep the Writ, and deliver the Labell to the Sheriffe.

9. An *Alias Capias*, or *Exigent*, awarded against one indicted of a trespass, or the like, upon surety found in the Chancery, may be stayed from thence, or the Sheriffe commanded not to arrest him; or if he be arrested, to take sureties of him, and let him goe. So when he hath given sureties *de fine assidendo*, Two Iustices, *Quorum unus* (some say one Iustice) may grant a *Supersedeas*. *Lamb. J.P. 526, 527.*

10. The *Certiorari* to remove the record, is in *Certiorari*, it selfe a *Supersedeas*, but a man may have a *Supersedeas* to the Sheriffe also. *Lamb. J.P. 515.*

Of the Justices power and duty in other things.

Sect. I.

The power and duty of the Iustices of peace out of quarter Sessions in divers other particulars. About trespasses in Orchards, Woodss &c.

ANy one Iustice of Peace where the offence is committed, or offender apprehended (but he that is interessed in the matter) may, upon the oath of one sufficient Witnesse, or the parties confession, for the first offence, appoint such recompence to be given to the party grieved, as the Iustice shall thinke fit, by any mean or lewd person, that shall cut or carry away Corn, or Hay, rob Orchards or Gardens, breake or cut any Hedge, Pale, Raile, or Fence, digge, pull up, or take away any Fruit Trees, cut or spoile any woods, under-woods, Poles or Trees standing (not being Felony) and their procurers and receivers: And if hee judge him in his discretion unable to give satisfaction, or he doe not make satisfaction according to the order, then he may make the Constable, or other Officer of the place where the offence is done, or he is taken, to whip him. And for the second offence cause him to be whipped. And if the Officer doe not whip him, the Iustice may commit the officer to prison without Baile, till he cause him to be whipped. And for a second offence, some say (but if he be a common offender herein) the Iustice may binde him to the good behaviour, and to appeare at Sessions, or send him to the House of Correction, 43. *Elix. 7. 7 Car. 4. Dal. 7. P.*

*Good behaviour.
Binde over*

If any offender sent to Gaole by a Justice of Peace, be able to heare his own charges for himselfe and attendance in his convey thither, and doe not pay that which is reasonable, the Justice may by a Writing under his hand and seale, give Warrant to the Constable of the Hundred, or Constable or Tything-man of the place where he dwelt, where his goods are, or whence he is committed, to sell so much of his goods and chattels, as the Justice thinks fit to satisfy it after appraisment by some of the neighbours, rendering to him the over-plus, 3. *Jac. 10.*

Cap. 42.

Sect. 2.

About sending an Offender to

Gaol

Warrant

Any one Justice of Peace may compell a man to take crackt money, or commit him to prison upon 19 *H. 7. 15.*

Sect. 3.

About crackt money,

Justices have power to heare and determine all defaults about money by the Statute of 17. *Ed. 4. 1. by Cook. 2 part. of his Inst. 742.*

Commitment.

Any one Justice of Peace (as it seemes) by prooffe of two Witnesses, or by examination of the party, and his own confession, or otherwise at his discretion, may heare and determine all the offences about Tyle-making, (*viz.*) if they bee made of good earth, and of earth well prepared, and of due assize in length, breadth, and thicknesse, and may assesse the Fines limited by the Statute. And this, it seems, must be at a privy Sessions by indictment, 1. *Ed. 4. 4. Sed Quere of this power,* for some doubt of it, *Lamb. 197. Dalt. 7. P. fo. 174.*

Sect. 4.

About Tile making,

There must be two Justices of Peace, *Quorum unus*, to commit such as refuse to obey the order of the Spirituall Judge for Tythes, till it bee performed. And these upon complaint of any com-

Sect. 5.

About Tythes,

Cap. 42. competent Judges for Tythes, for any misdemeanor of the defendant in a suit of Tythes, or any other duty of the Church, may cause him to be attached & committed to ward, without bail, till he finde sureties, and give Bond to obey the Order, 22 *H.8.7.* 27. *H. 8. 20.* 32. *H.8.7.*

**Commit-
ment.
Bail,**

Sect. 6.

**About Souldiers and
Mariners.
Commitment,**

Any one Justice of Peace may, upon proofe, [which may be by Witnesse] commit to prison Souldiers who purloyn Horses, Harnesse, or Armour, till they make satisfaction to the owner, 1 & 2 *Ed.6.2.* *Dalt. J.P. in chap. 5 2.* So one may license them after their landing, to passe to the place they would goe, 39 *Eliz. 17.*

Sect. 7.

There must be two Justices to appoint what Fishermen shall be prest for Mariners, 5 *Eliz. 5.*

Sect. 8.

**About In-
rolment.**

Any one Justice of Peace may joyn with the Clerk of the Peace in the inrolment of a Deed of Bargain and Sale, 27 *H. 8.6.*

Sect. 9.

**About
Wines,**

Any Justice of Peace may (as it seems) upon the request of him to whom deniall of sale of Wine shall be made at the prices set downe by the Lords, &c. enter into the Vintners House, and sell this wine, and take this money towards the forfeiture for his offence. 24 *H.8.6.*

Sect. 10

**About the
Revenues of
the Hospi-
tals,**

There must be two or more Justices of Peace to joyn with a Bishop or his Chancellour in the taking of an account of the Revenues of an Hospitall, 14 *Eliz. 5.* 39 *Eliz. 18.* 2 *H.5.1.*

Sect. 11.

**About Fish
and fishing.**

Every Justice of the Peace is a Conservator of the Rivers, and of the Statutes concerning the same, and may appoint under-officers to looke to them. And they may for the first offence, burn such Nets and Engines as destroy Fish: for the second offence, imprison the Offender for a quarter of a yeare; and for the third offence,

**Commit-
ment,**

sence, imprison him a year. And he may give a Warrant to levy the forfeitures of them that destroy the brood of Fish. *Dalt. J.P. ch. 21. 13 Ed.* **Cap. 42.**

1. 47. 13 R. 2. 19. 17 R. 2. 9. 3 Car. 12.

Six Justices of the Peace, *Quorum duo*, may for a yeare after the granting of the Commission of Sewers, execute the same, unlesse a new Commission be published within the yeare, 13 *Eliz. 9.* **Self. 12.**
About the Rivers.

There must be two, *Quorum unus*, to license Ale-keeping. But any two Justices may license poore people to travell to *Bath* or *Buxton*. And any one Justice of Peace may give a Testimoniall to such as have suffered Ship-wrack, Souldiers and Mariners that come from Sea, of their landing, and place to which, and time in which, they are to goe, and license them to travell thither. **Self. 13**
About making Licenses or Testimonials, or Certificates. Mariners.

And any one Justice of Peace may license Labourers to goe out of one County into another, to work in the Harvest time, 1 *Jac. 9.* 21. *Jac. 7.* 39 *Eliz. 4.* 39 *Eliz. 17.* 5 *Eliz. 4.* But there must bee two to give a testimoniall or license to Servants that depart out of their Masters service. **Servants.**

One Justice of Peace may certifie decciveable Cloth, or the breach of the Peace before him, into the upper Bench, or any other thing done in his presence: this he may record and certifie. **Self. 14.**
Cloth, Certificate.
And this is a conviction to which no traverse lieth. Or joyn with a Customer, to certifie the unlading and selling of Corn, and Cattell carried from one part of the Realm into another unto the Customer whereit was laden, upon the Statute of fore-stalling. **Fore-stalling.**

Or certifie into the upper Bench a Recusant above **Recusant.**

Cap. 42. bove 16 yeares old that comes not to Church in twelve monerhs together, to the end he may there be bound to the good Behaviour.

Sect. 15. Or may take the discovery of *Agnus Dei*, &c. *Agnus Dei* or Popish Priests, &c. and certifie it to the Pri-
vy Councell within fourteen dayes.

Popish
Priest.

Or may take the Submission in writing and Oath of any Jesuit or Priest within three dayes of his landing in *England*, and certifie it into the Chancery, *Dalt. J.P. 49. 5 Ed. 6. 14. 13. Eliz.*

Apprentice, 25. 22 *Eliz. 1. 13 Eliz. 2. 27 Eliz. 2.* But there must be three to certifie for an Apprentice, that his Parents can spend fourty shillings *per annum*, upon 5. *Eliz. 4.* But this is not necessary.

There must be foure Justices to joyn with the Lieutenant, Deputy, or Bishop, to license a confined Recusant to goe about any speciall businesse he hath to doe, by 3 *Jac. 5.*

Sect. 16.
About the
counterfeit-
ing of false
tokens,

There must be two, *Quorum unus*, to call in, attach, examine, imprison, or bind them and the Witnesses to the Sessions, such as by false tokens or Letters in others names, shall get into their hands any money or other things, 33 *H. 8. 1. Dalt. J.P. ch. 17.*

Sect. 17.
About the
dividing of
a Wood,

There must bee two or more to divide the fourth part of a Wood, being appointed thereunto by the Sessions, upon the Lords complaint, 35 *H. 8. 7. 13. Eliz. 21.*

Sect. 18.

About Wax

Any Iustice of Peace may examine and search by his discretion, and punish by forfeiture of the work, or value thereof, and fine to the Commonwealth, such as doe sell, or offer to be sold any Candles, or other workes of Wax, at a higher Rate than 4. d. the pound, over the common price of plain Wax between Merchant and Merchant, 21 *H. 6. 12.*

Any

Any one Justice of Peace upon complaint that any Dier is suspect to use Blockwood, or Logwood in Dying; he may call him before him, and examine him or his servants on oath, and if he finde any thing, he may binde him with Sureties, and the witnesses to the next Quarter-Sessions or Gaole delivery, whither he must certifie the examination. And if he refuse to be bound, send him to Gaole till he doe it. But there must be two Justices to give power to burne the Suffle, when it is found in any mans house. 23 *Eliz.* 9. 39 *Eliz.* 11.

Cap. 42.

Sess. 19.
About Log-
wood in
Dying,

Binde over,

Commit-
ment.

If the owner or occupier of any Mannor-house or lands in the County, worth five pound a yeare, refuse to pay him that taketh old Crows, Choughs, or Rooks upon his land after two pence a dozen, upon complaint any Justice of Peace may cause it to be levied by distresse, upon his goods and chattells. 24 H. 8. 1.

Sess. 20:
About kil-
ling Crows,
&c.

If any Statute enable one Justice of Peace to take an Inquisition, he may take it; otherwise there must be two Justices of Peace to take an Inquisition.

About ta-
king of an
Inquisition.

Any two Justices may charge double and punish according to their discretion, such as escape taxations at Subsidies. 3 *Car. Lam* 336.

About such
as escape
Subsidies

Any one Justice of Peace may direct the Constable, to sell such deceitfull Malt as he upon search shall finde, at such prizes as the Justice shall think fit. 2 *Ed.* 6. 10. 27 *Eliz.* 14. 2 *Jac.* 28. 3 *Car.* 4.

Sess. 21.
About Malt

The restraint of Malsters must be at the Quarter-Sessions by Order. But any two Justices of Peace, may upon confession, or by two witnesses convict him that doth disobey this Order, and com-

Cap. 42. commit him to Gaole three dayes and after, till he become bound in forty pound, to obey the Order, and this Recognizance any one Justice of Peace may take. 39 *Eliz.* 16.

Commitment.
Order.

About requiring or giving an Oath.

Sess. 22. Constables, or Church-wardens, or any two of them shall complaine of as suspect, or one who

Allegiance. travelleth the Country and is unknowne, who upon his examination shall not deny himself to be a Recusant, or not to have received the Sacrament twice the last yeare, to take the Oath of obedience or allegiance, or send him to Gaole. 3 *Car.* 4. 7 *Iac.* 6. But in other cases there must be two *Quorum unus*, who may require all, except Barons, and in the degrees above them, to take this oath, and send the recusers to Gaole without Bayle till next Assises or Quarter-Sessions. *the same Dalt. I. P.* 129, 130.

Commitment.

Peace.

Oath.

Constable.

Any one Justice of Peace may require such as are between fifteen and sixty, to be sworn to keepe the Peace. *Dalt. J. P. in ch.* 36.

Any one Justice of Peace may give the Constable his Oath.

Sheriffs and Bailiffs.

There must be two, *Quorum unus* to give the Sheriffe his Oath of Supremacy and for his office, and this they may doe *ex officio*. And without any Commission. So also to give the oath to his Bailiffs of Libertie, known Bailiffs Deputies and Clerks, that shall have to doe in returning of any Jury, or Execution, of any Procelle, who ought to be sworn, otherwise of speciall Bailiffs

Of the Justices power, &c.

191

Cap. 42.

27 *Elizabeth. 12. Dalt. I. P. 166.*

Any two Justices may give oath to the Collectors of the Sheriffs Amercements for his County Court, that they shall Collect no more then due. *Dalt. J. P. 166.*

collectors of Amercements.

Any Justice may give him an oath that is robbed, and examine him whether he knew him that did the robbery, and if he doe, he must take a Recognizance of forty pound of him, to prosecute upon 27 *Elizabeth. 13.*

Him that is robbed.

Any one Justice of Peace may compell him that hath the Plague to keep in, and if after command he refuse, albeit he have not the sore upon him, he may punish him as a Vagabond, and binde him for a yeare to the good Behaviour. And one Justice may also according to his discretion, appoint Searchers, Watchmen, and keepers, &c. But there must be two to set a Rate for the releife of the persons infected. *See Rate. 1 Jac. 31. 21 Jac. 28.*

About them that have the Plague.

Vagabond. Good Behaviour.

Rate.

Self. 23

Any one Justice of Peace may enter into any house within or without any Liberties, that is suspect to have dicing, carding, or any other unlawfull games used in it, and upon view thereof, arrest and imprison him that keepeth them (except he have the keepers of the liberties License.

About unlawful Games.

Commitment.

And he may arrest, and imprison all Artificers, Husbandmen, Labourers, Marriners, Fishermen, Watermen, Apprentices, and Servants, and others whatsoever, that play at any unlawful games at any time, or in any place but at Christmas, or in their owne, or Masters houses, garden, and orchard, and by their Masters license. And any men that shall play at Bowles in any place, but his owne garden or orchard, untill they give Surety

Cap. 42. Sureties in such a sum as the Justice of Peace shall think fit, that they will play no more,
33 H. 8. 9. 31 Eliz. 5.

About Ar-
cherie. Any one Justice of Peace may according to his discretion, examine all persons that have nor
Sessions, Bowes, Shafts, and Arrows, according to the Statute of 33 H. 9. But the offence it seemes if it be punished, must be punished in a Sessions.

About
Guns. Any one Justice of Peace upon examination (which must be as it seemes of the party) and prooves, commit to Gaole him that is found to shoot in, carry, keep, use, or have in his house, or else-where, any Guns or Grosse-bowes, Dags, Pistols, or stone-bowes, contrary to 33 H. 8. till he pay his ten pounds; the estreat whereof he must send into the Exchequer. *Dalt. Just Pac. ch. 24.*

Hares,
Commit-
ment. But there must be two Iustices of Peace to commit for three moneths without Baile, unlesse he pay twenty shillings a Hare, &c. he shall kill. fourty shillings for a Grey-hound, setting-dogge, or Net, and give bond of 20. l. with two Sureties within a moneth of his commitment, not to offend again. Him that shall shoot at, or kill with Gun or Bow, any Partridge, Pheasant, House-dove, Pigeon, Hearn, Mallard, Duck, Teale, or any such fowle, or any Hare; or shall take or kill any Partridge, Pheasant, House-Dove, or Pigeon, with any Engine or Instrument, or take or destroy the Egges of Pheasant, Partridge, or Swan, or trace any Hare in the snow, or take it with any cords, or keep any Grey-hound, setting Dogge, or Net, being proved by confession, or oath of two witnesses.

Grey-
hounds,
Setting
doggs,
Netts.

Any two Iustices of Peace may by 1 Jac. 27.

¶ 7 Jac. 21. heare and determine out of Sessions, any offences for destroying Partridges and Pheasants, &c. But he that is convict upon the 23 Eliz. 10. for taking Pheasants and Partridges in the night, may be bound by any one Iustice of Peace not to offend so again in two years.

And two Iustices of Peace may give Warrant to search the houses of persons suspect, and disabled to keep setting Dogges, or Nets, and to kill the Dogges, and cut the Nets in pieces that they finde, 7 Jac. 11.

Warrant to search

Also any one Iustice of Peace may examine him that killeth Partridges or Pheasants in the night, and hath not been punished for it, and take Bond for his appearance at the next Generall Sessions of the Peace, to answer the offence, upon 23 Eliz. 10.

Binde over

He that hath free Warren, Mannor, or free land of fourty pounds, or Lease for Life of four-score pounds *per annum*, clearly in his own or Wives right, or foure hundred pounds goods or chattels, may take Partridges or Pheasants in his own land, by 7 Jac. 11.

Any Iustice of Peace may examine the offenders about Hawking or Hunting with Spaniels in corn, &c. and may binde over the offenders with good Sureties, and witnesses to appeare at the next Quarter Sessions, and on refusall send to Gaole, upon 23. Eliz. 10. & 7. Jac. 11. Dalt. 1.P. ch. 25.

About Hawking
Binde over,

Commitment.

And so upon prooffe of two witnesses he may take a Recognizance of such as take Partridges with setting Dogges, or nets, upon 7 Jac. But

Recognizance.

But there must be two Iustices of Peace that must within six moneths of the offence, commit

Commitment.

Cap. 42. to Gaole a moneth without Baile, unlesse hee forthwith pay fourty shillings a time, and twenty shillings a Pheasant or Partridge, him that by confession, or oath of two witnesses, is proved to hawk or hunt between the first of *July* and last of *August*, 7 *Iac.* 11. So they may punish them that sell, or buy to sell again, any Deere, Hare, Pheasant, or Partridge, upon 1 *Iac.* 27. 21 *Iac.* 28. So there must be two upon confession or Oath of one witnessse to send to Gaole for three moneths without Baile, unlesse he pay forthwith to the Churchwardens or overseers of the poore, twenty shillings a Pheasant, or Partridge, him that takes, kills, or destroys any Pheasant or Partridge with setting Dogges, Nets, or other Engines. Yet one Iustice may take a Recognizance of twenty pounds of such an offender, that he shall not offend again, 7 *Iac.* 11. He that is punished upon this Law, must not be punished by any other Statute.

Commitment,

About hunting.

Warrant,

Bind over.

Commitment,

Stat. 24.

About fish-
dayes,
Search,

Any one Iustice of Peace upon information that any one hath hunted Deere or Conies in the night disguised, may send his Warrant to the Sheriffe, or other Officer, to bring them before him to be examined. And finding cause, may binde him to the good behaviour. But there must be two Iustices of Peace to commit to Gaole them that trace and kill Hares, upon 1 *Iac.* 27 *Dalt. J. P. ch.* 29.

Every Iustice of Peace in the Lent time, may enter into and search all Victualling-houses for flesh; and if he finde any till three dayes before Easter, seise it, and give it to the prisoners or poore at his discretion. 1 *Iac.* 29. 5 *Eliz.* 5. 35 *Eliz.* 7.

Any

Any Justice of Peace, Sheriffe, and Escheator, may seise all the goods of any out-landish person, calling himself an Egyptian, within one moneth after his arrivall in this Realme, and keep half to his own use, and for the rest must account to the Exchequer. But after the moneth the King will have all, 12 H. 8. 10. But some doubt of this law, and see *Dalt. I.P. ch. 19.*

Cap. 42.
Sec. 25.
About an
Egyptian.

The Certificate of the refusall or taking of the Oath of Allegiance by a conforming Recusant returning into England, from two Justices of Peace, must be sent to the Quarter Sessions, upon 3 Jac. 4. 7 Jac. 6.

Sec. 26.
About a
Certificate.
Oath of
Allegiance

He that takes the Oath or Submission of a Priest or Jesuit, within three dayes of his landing in England, must within three moneths certifie it into Chancery, by 35. Eliz. 2.

Oath of
Submission

Recognizances must bee certified the next Assizes or Sessions, 5 & 6. Ed. 6. 25.

Recogni-
zances.

One Justice may certifie into the upper Bench the absence of one from Church 12 moneths, upon 23 Eliz. 1.

Absence
from the
Church.

A *Supersedeas* out of the Chancery is to be certified at the Sessions, together with the Recognizance for the Peace. If the *Supersedeas* doe testifie that he hath found Sureties in the Chancery onely to a certain day, which day is after those Sessions, if the *Supersedeas* come to his hands after the Recognizance taken, *Dalt. I.P. f. 173.*

Supersedeas

The power of Justices in some places, see in *Daltons I.P. chap. 66.*

Any two Justices of Peace, or (as it seems) one Justice, and one of the Assessors for the Monethly contribution, together may take the

About tak-
ing the
Engage-
ment.

Cap. 42. Engagement of any one, offering to give it; thus.

I do declare and promise, that I will be true and faithfull to the Commonwealth of England, as it is now established without a King, or House of Lords.

And this setting down the day of the taking of it, they must certifie to the high Sheriffe of the County, within one moneth after the taking thereof. *Act. 20. Jan. 1549.*

About the
removing of
Papists,
Souldiers, &
delinquents.

The Lord Mayor of London, and all the Justices of Peace within that Cittie, the late lines of Communication & the Countiees of Middlesex, Hartford, Essex, Kent and Surry, are to keepe strict watch and ward, frequently search for and apprehend all Papist Officers and Souldiers of fortune, and others who have borne Armes against the Parliament; or have adhered unto, or willingly assisted their enemies in the late War, that after the twentieth of March 16. 9. if they be at libertie, or within five daies after their enlargement remaine within the Citties of London, Westminster, and late lines of Communication; or within twenty miles of those lines. And any one of them upon apprehension, may examine him and others upon oath against him, commit the Party to Gaole, binde over the prosecutors and witnesses to the next Quarter-Sessions. And of his doings herein, he is forthwith to acquaint the Councell of State, by letter under his hand and seale.

Any

Of the Justices Power, &c.

197
Cap. 42.

Any foure Justices of any County may under their hands and seales, license a Rapist or Delinquent confined to five miles of his native place, or father, or mothers dwelling, upon reasonable cause to go further then five miles. But the license must expresse the cause, and the time how long he shall be absent. And the parties licensed must first take the Engagement, and an Oath before some one of them, that he hath truly informed them touching the cause of his license, and that he will not make any causes stay in his journey. *Act. 26. Febr. 1649.*

All Justices of Peace are to assist the Contractors, Surveyors, and other Officers appointed for the sale of Bishops Lands, in the execution of the Ordinance of 23 Nov. 1646.

A Justice of Peace (as some think) may amongst other Officers, set a reasonable rate upon Provisions, and see that the Soldiers may have them at that rate in the places where they quarter. by the Act of 2 May. 1649. But I doubt it, and think rather that other Civil Magistrate doth intend inferior officers, such as Constables are.

Any one Justice of Peace may take the Oath of any man robbed near him, whether he know any of the Parties that robbed him. And if he do, binde the Party in a Recognizance effectually to prosecute him. *Stat. 27. Eliz. 14.*

When a Recovery is had against a Hundred, & Execution made on some persons therein, any 2 Justices lying near the place, *Quorum unus*, may set a Rate upon the Parishes of the whole Hundred, as well within as without Liberties, upon the distribution thereof by the Constables on

In assisting
of the Tru-
stees and
Officers for
sale of Bi-
shops lands.
In setting
Rates upon
Provisions
for soldiers
ers.

In taking
the Oath of
one robbed,

Set a Rate
to have a
Contributi-
on for any
of the Hun-
dred charged
with
the whole
execution.

Cap. 43. every Inhabitant force the levyng and bring-
ing in thereof to them by distresse and sale of
Goods to be done by the Constables and Justi-
ces, having received it they are to see that the
parties grieved have it.

So also they may do upon another Hundred
where it is charged with a moiety of such a
Charge upon a Hundred for any defect or neg-
lect of pursuit of Hue and Cry, &c. towards the
case of the Hundred, first charged. 27 Eliz. 13.

CHAP. XLIII.

Of a Supplicavit.

The office
and duty of
the Justice
of Peace
herein out
of Quarter
Sessions.

THis Writ is a Command out of the
Chancery or upper Bench to one or
more Justices of the Peace to binde
some person to the Peace or good Behaviour.
Fo which *See Dalt. I. P. 225, 227.* And know
these things.

Warrant
Commit-
ment

1. He onely to whom it is delivered must exe-
cute it.

2. The Justice that receiveth the Writ is to
make his Warrant to the Constable, or other in-
different person; and if he refuse to finde sure-
ties, to carry him to Prison.

3. The Party attached must be bound before
him that sent out the Warrant and none other.

4. The Justice is to execute it as it directeth.

5. If the summe be left to his discretion, it is
good to set a good summ.

Supersedeas

6. After Sureties taken, the Justice may make
a *Supersedeas*.

7. The

7. The Justice need not return it, nor make a Certificate till a *Certiorari* come. *Dalt. I. P. 186, 187, &c.* Cap. 44.

C H A P. XLIV.

Of a *Mittimus*.

THe *Mittimus* is the Warrant by which the Prisoner is sent to the Gaol, &c. The power and duty of Justices of Peace hereout of *Quæ* Sessions,
Touching which, these things are to be known.

1. This instrument must be in writing and under hand and seal. But if the Commitment be by order of Sessions, there needs no such Solemnities.
2. The names of the party committed, the time of making it, the cause of the Commitment must be set down and expressed in it, as for Treason, Felony, suspicion thereof, that it may appear whether the Prisoner beailable or nor, and that those that have the custody of him may take care of him, for if the cause be set down to be Treason, or Felony, it is so in the Officer to suffer him willingly to escape, whether he be guilty or not; otherwise if no cause be expressed, it is no Offence. Officer Escape
3. If it be a Commitment to the house of Correction, onely the *Mittimus* must set down the Cause, as *Quia otiosa*, or *quia inordinata Persona*, or the like, *Cook 2 part of his Inst. f. 52:*
4. If the Commitment be without Bail or Main-prise, and by the Cause expressed is bail-

200 *Conviction and Triall of Offenders.*

Cap. 45. able by Law. it seems other Justices of the Peace may bail him. *Dalt. I. P. 351, 394, 387, 396, 392.*

C H A P. XLV.

Of the conviction and Triall of all Offenders.

The power
and duty of
Justices of
Peace here-
in out of
Quarter
Sessions.
Indictment,
Examina-
tion.

Sessions

IN this these things are to be known. 1. An offender may be attaint or cōvict many ways. The Attainder or Conviction by the Common Law is for the most part by Indictment & a Jury, and cannot be otherwise. For Triall by Examination, and Witnesses are not allowed but where the Triall is referred to the discretion of the Justice of Peace, or the statute doth especially authorize him so to do, as it doth in many cases, for by divers statutes the conviction of an offender may be after divers wayes, and it must be according to the Statute, and cannot be otherwise. Sometimes it may be before one, sometimes it cannot be before less than two Justices of Peace. Sometimes it may be out of any Sessions, sometimes it must be at a private Sessions, and sometimes it cannot be done any where but in the Quarter Sessions. Sometimes it is by the Justices own view or hearing, sometimes it cannot be done but by other proof. But where the Statute does not direct the way, but say, Justices shall hear and determine, and say not how, or where, as 26 H. 6. 10. 5 Eliz. 9. There it must be by the ordinary way w^{ch} is by Indictment. And so it may be also, if the Justice please, where it may be done another way. *Dalt. I. P. 73. f. 193.*

2. Some

Conviction and Triall of Offenders. 201

Cap. 45.

2. Some Statutes speak of Conviction by Inquiry, some by Inquiry and Examination: some say by Inquiry or Examination. In all these Cases regularly the Justice of Peace is to examine the Offenders and Witnesses. *Dalt. I.P. fol. 191.* But if it be by Examination onely, as *4 Ed. 4. 2.* Then it seems the Offender is to be examined. *Young 40.* And so it seems may the Witnesses also. *21 Jac. 18. 18 Eliz. 3.*

3. Sometimes the Statutes speak of proof, and then it must be by proof of witnesses only. *Dalt. I.P. f. 191, 192.* Sometimes it is by Examination and proof.

4. If the Statute say by Accusation generally, it must be by examination of Witnesses upon Oath. *Dalt. I.P. f. 191, 192.*

5. Sometimes the Statute directs the Conviction to be by two Witnesses, or Confession: sometimes by Witnesses or view, sometimes by view, or hearing onely, sometimes by two Witnesses, view, or confession; sometimes by view or indictment, sometimes by view or inquiry; sometimes by one Witness, view, or confession; sometimes by one Witness, or view; and after Confession of an Offender by his own Oath; sometimes by one Witness, or Confession; sometimes by view or information; sometimes by proof of one Witness; sometimes by proof of two Witnesses; in all Cases the direction of the Statute is to be followed. If the Statute speak of Witnesses, it cannot be lesse than two (except the Triall be by Jury,) where happily one may serve. *Dalt. I.P. 192.*

It is convenient in all Cases, especially where the Conviction is by Oath of Witnesses alone, that

Cap. 46. that the offender be heard before he be convicted. But this, it seems, is not necessary, *Dalt. I.P.f. 191.*

CHAP. XLVI.

Cautions to Justices of Peace.

Sessions

They are to take care of their carriage; for they may be punished as other men, and that in this Court of the Quarter Sessions also, 4 *H.7. 12. Dalt. I.P. ch. 20.* especially in these particulars.

Record

1. Where they have power to heare and determine out of Sessions, by their own view, confession of the offender, or proove of Witnesses, these things must be heeded: 1. To make and keep by them a Record of all the proceedings, especially if there be a Commitment.

Estrait

2. If the offender be to be fined, then to estreat it, and send it into the Exchequer, *Dalt. I. P. f. 190.*

Certificate of Recognizances

3. They must return all their Recognizances for the keeping of the Peace, and otherwise at the next Sessions of the Peace for the County, 5 & 6. *Ed. 6. 25. 3 H.7. 1.*

Certificate of an oath of a Papist

4. He that takes the Oath and Submission of Priest or Jesuit within three dayes after his landing in *England*, and doth not certifie it in three moneths in Chancery, loseth 100 pound, by 37. *Eliz. 2.*

5 They must take heed of all neglects which are penall to them; as not to execute the Statutes

Cautions to Justices of Peace.

203

rules against Riots and Forcible Entries, upon notice, not to discover Treason, Seminaries, *Agnus Dei*, &c. to baile such as are not bailable, to discharge Felons, to take any Recognizances otherwise than in the Kings Name, not to certifie Recognizances at the next Assizes or Sessions, not to meet at Easter Sessions, not to certifie the examination of the Sheriffe and his Bailiffes in entring plaints, &c. into the Exchequer, not to present at the next Quarter Sessions, the offences which the Surveyors of the High-ways have presented to them. *Dalt. I.P. ch. 20. fol. 73. 11. H. 7. 15. 13 Eliz. 2. 29 Eliz. 2.*

Cap. 46.

Riots
Conceal-
ment
Baile
Felons
Recogni-
zances
Certifica-
e

Presentment

He forfeits an hundred pounds if he be faulty in the execution of the Statute against Riots, 13 H. 4. 7. 17 R. 2. 8. And may be punished for neglect of that against Forcible Entry. *Dalt. I. P. f. 72.* Twenty pound, if he certifie not the Juries fault, upon 19 H. 7. 13. Imprisonment, if he take a Recognizance in his own name. 33. H. 8. 38. Such fine as the Justices of Gaol-Delivery shall set down, if he take bail contrary to Law, or doe not certifie the baile and the examination, 1 & 2 P. & M. 13. Five pounds, if he doe not his duty for the poore, upon 14 Eliz. 5.

And the Justices of Assize may punish the defaults of the Justices of Peace, 2 R. 3. 10.

CHAP.

CHAP. XLVII.

The Reward of Justices of Peace.

Fees.

Sheriffe

They are by their Oathes to take nothing but of the State, and what is given them by the Statutes, which are their wages for their comming and charges at Quarter Sessions, which the Sheriffe is to pay them, by 14 R. 2. 11. 12 R. 2. 10 out of the Fines and Amercements, 5 Eliz. 4. And they are to have foure shillings a day a piece, and their Clerkes two shillings for this service. And they are to have five shillings a piece for every day, not exceeding three, they sit upon the Execution of the Statute of Labourers, by 5 Eliz. 4.

They are to have the tenth of the forfeiture of him that doth offend against the Statutes by Deer-hayes, Buck-stalls, and stalking, 3 Ed. 6. 2. The one halfe of the forfeiture of him that being by them appointed, refuseth to be an Overseer of Cloth, 39 Eliz. 20. And a third part of the faulty Cloth, upon 3 Ed. 6. 2. And the one halfe of the goods of an Egyptian seized by 21 H. 8. 10. Twelve pence upon the inrolment of every Deed of Land of fourty shillings *per annum*; and two shillings six pence if the Land be above fourty shillings a yeare, 27 H. 8. 16.

Riots.

The State is to beare their charge in the execution of the Statutes of 13 H. 4. 7. 2 H. 5. 8. about Riots, and they are to receive it from the Sheriffe out of the Fines, *Dalt. 1. P. f. 141.*

The

The Reward of Justices of Peace. 205

The party grieved and prosecuted, is to bear **Cap. 47.**
their charges in execution of the Statutes of **Forcible**
Forcible Entry, of 8 H.6. 9.

If they be sued for any thing done in the ex- **Pleading.**
ecution of their Office, they may plead the ge-
nerall issue, and give the matter in evidence.
And if they be quit, they shall have treble dam- **Treble dam-**
ages, 7 Jac. 5. **ages**

They cannot bee sued for any thing done in
their Office out of their County. 21 Jac. 12.

*Quicquid fecerint de Recordis ignoranter, & pro
defectu scientia, non erunt pro eo puniti.*

Nec pro re per ipsos facta Iudicialiter. 2 R.
3. 10.

This must be understood in their Courts of
Justice.

Speciall power of Justices in some Coun-
ties.

In *Norfolk* 27 Eliz. 24.

In *Suffex.* 27 Eliz. 9.

In *Surry* 27 Eliz. 9.

In *Kent* 27 Eliz. 9.

About Malignat Ministers.

Any two Justices of Peace may cause to be apprehended all delinquent and scandalous Ministers, their Aiders and Abettors, who having been by Authority of, under, or from the Parliament ejected out of any place, do yet get into the Possession of the Houses, Profits, or Tithes, and keep out the Sequestrators, or others placed in their room, appointed to receive it, and may cause them to be imprisoned till they give such satisfaction to the new placed Ministers, as the Justices shall set down, upon proof thereof by the Oath of two Witnesses before them. 2. They may settle in quiet possession such new placed Ministers. And call for aid herein from the Forces of the County. 3. They may also upon proof by Oath of two Witnesses, commit to Prison for a moneth every time any such Malignant Minister shall disturbe any such new placed Minister in the Excercise of his Office. *Ord. 23. August 1647.*

About the Lords day.

Any one Justice may by his Warrant cause to be seized and secured all the Wares and Goods that shall be cried, shewed forth, or put to sale; he may license any man to go out of his Inn or place of Abode on *Munday* morning before one a Clock upon good cause: or license any man to use a Boat, Wherry, Lighter, Barge, Horse, Coach, or Sedan, on the Lords Day upon good cause. He may search to discover any Profaners of the Day: and he may use such other means as he shall think most meet to restrain the Abuses of the Day.

An Alphabetical Table of the principall things contained in this Book.

A

A Bjuration, Chap. 7
Account of Overseers of the Poore, chap.
18, sect. 8 Of such as have money for
Apprentices, chap. 19. sect. 12. Of Survey-
ors of High-ways and Bridges, chap. 23.
Of Officers that have any maimed Souldiers
money, chap. 35

Adultery. See Incontinency.

Affrayors. See Peace, and suretie of the Peace,
chap. 9, and chap. 15.

Ale-houses and Ale-house-keepers, chap. 16.
chap. 23. sect. 2. chap. 16. sect. 2.

Apparance to a Recognizance necessary, chap. 19.
sect. 10, 12. chap. 38.

Apprentices. Chap. 18. sect. 4. 10. chap. 19.
sect. 10.

Archerie. Chap. 42. sect. 23

Armour. Chap. 9. sect. 2. chap. 12. sect. 5. chap.
23. sect. 2

Arrest. Chap. 8. sect. 2, 8. chap. 9. sect. 2. chap. 11.
chap. 12. sect. 4. chap. 13. sect. 4. chap. 1. sect. 2. See
Imprisonment.

Assessment

The Table.

Assessment. See Rates.

Authority. The opposers and refusers thereof.
 Chap. 9. chap. 12. sect. 5. chap. 15. sect. 4. See
 Good behaviour.

B.

Baile gransable or nor, and how, chap. 23. chap. 2.
 sect. 5, 8. chap. 23, sect. 3, 4, 5. Chap. 44

Barretor. Chap. 15. sect. 4.

Bastards. Provision for them, chap. 23. sect. 4.
 Punishment of their parents. Chap. 17. chap. 20

Behaviour. Surety of the good Behaviour gransable; where, how, by and to whom, and for and against whom. Chap. 15. sect. 3. chap. 27. sect. 2.

Against a Master or servant, chap. 19. sect. 10.

A Witnesse refusing to give evidence. Chap. 27. sect. 1. chap. 8. sect. 7. chap. 15. sect. 4.

A Hedge-breaker, chap. 15. sect. 4.

Him that hath the plague, chap. 42. sect. 22.

Him that doth commit a Riot, or forcible Entry, chap. 12. sect. 5. chap. 13. sect. 4. chap. 15. sect. 2, 4.

A Cheater, Chap. 15. sect. 4.

One of evill name, chap. 15. sect. 4.

A Felon, chap. 15. sect. 4.

A Barretor, chap. 15. sect. 4.

A Libeller, chap. 15. sect. 4.

One that doth practice to poyson, chap. 15. sect. 4.

A Common Peace-breaker, chap. 15. sect. 4.

An incontinent person, chap. 15. sect. 4. chap. 17. sect. 1, 2.

A Conspirator, chap. 15. sect. 4.

One that doth abuse or oppose Authority, & the Officers or Ordinances of Law, chap. 15. sect. 4.

The Table.

| | |
|--|--|
| An Ale-seller | chap. 13. sect. 4. |
| An Eyesdropper | Idem |
| A Nighr-walker | Idem |
| A common Affrayer | Idem |
| A disturber of a Minister | Idem |
| A Drunkard | Idem |
| He that goeth not to Church | Idem |
| A destroyer of a Fish-pond. | Idem |
| A reporter of false news | Idem |
| Idle words | |
| Breach of this Bond | chap. 15. sect. 11 |
| Discharge thereof | chap. 15. sect. 10. 12 |
| Blasphemy | chap. 33 |
| Binding over, where and how it may be, | chap. 33. sect. 4. ch. 27. sect. 2. chap. 42. sect. 19 |
| | chap. 38. |
| Of a Felon | chap. 8. sect. 4. 8. 11 |
| Of an Officer for not taking or not executing his Office | chap. 22. sect. 3 |
| Of a Master or Servant | chap. 19. sect. 10 |
| Of a Hunter, &c. | chap. 42. sect. 23 |
| Of a Trespasser | chap. 42. sect. 1 |
| Of a Witness | chap. 42. sect. 23 |
| Of a Prosecutor | chap. 8. sect. 7 |
| Bridewell, who is to be sent thither, | chap. 23. sect. 2. chap. 19. sect. 10. chap. 16. sect. 2. chap. 17. sect. 1. |
| Bridges | chap. 25 |
| Chapman Bridge | chap. 26. sect. 3 |
| C | |
| Certiorari | chap. 12. sect. 6. chap. 39 |
| Certificate Of Examinations, | chap. 35. and 37. chap. 43. sect. 5. |
| Of a Submission, Chap. 7. Of deceitfull Clerk | ch. 42. sect. 14 |
| Of a Recognizance, Chap. 5. 6. | Of . |
| P | |

The Table.

Of a Presentment, Ch. 26, f. 2. *Of a Record*, C. 12, f. 4. *Of lack of Distresse*, Ch. 16, f. 2. *Of an Oath*, Chap. 44. *Cheator*, chap. 15, f. 4. *Children*, see *Bastards*. *Church, not coming to Church*, ch. 15, f. 4. ch. 22, f. 2. *Repairing the Church*, ch. 28. *Churchwardens*, see *Constables*. *Clark of the Market*, chap. 25, f. 3. *Cloth and Clothiers*, Chap. 19, f. 11. ch. 42, f. 24. *Commitment or Imprisonment*, ch. 23. *Of a Felon*, ch. 8, f. 6. ch. 23, f. 2. *Of a Recusant*, Ch. 7. *Of one that doth ride armed*, chap. 23, f. 3. *Of one that doth refuse to undertake or excuse his office*, chap. 22, chap. 23, f. 3. *Of a Servant, Apprentice, and Labourer*, Ch. 19, f. 2, 10. ch. 23, f. 2. *Of one that hath a Bastard*, ch. 17, f. 1, 2. *Of a Hunter*, Ch. 23, f. 1. *Of a Rogue, or Loyerer*, Ch. 19, f. 10. ch. 23, f. 2. *Of him that useth a Gun*, ch. 23, f. 2. chap. 42, f. 23. *Of him that eateth flesh on a Fast day*, ch. 23, f. 2. *Of him that committeth a Riot, or Forcible Entry, &c.* Ch. 23, f. 2. ch. 12, f. 4. ch. 13, f. 4. *Of him that disturbeth a Preacher*, ch. 23, f. 2. *Of a perjured person*, ch. 23, f. 2. *For a Fine*, ibid. *Of a Mad-man*, ibid. *Of a false prophesier*, ibid. *Of a fore-staller*, ibid. *Of a Forger of Deeds*, ibid. *Of one that keepeth a house of unlawfull Games*, chap. 28, f. 2. chap. 42, f. 23. *Of an Hostler*, ch. 23, f. 2. *Of him that doth not obey the Justices Orders*, ch. 23, f. 2, ch. 42, f. 21. *Of him that payeth not his Rates*, ch. 23, f. 2. ch. 24, f. 2. *Of him that commeth not to Church*, ch. 23, f. 2. *Of him that refuseth the Oath of Allegiance*, ch. 23, f. 2. ch. 42, f. 22. *Of a Malster*, ch. 23, f. 2. *Of one bailed*, ch. 23, f. 4. *Of him that refuseth to be*

The Table.

be bound over, chap. 23. sect. 4. chap. 42. s. 22.
 ch. 23. s. 2. *Of him that refuseth to account*, ch.
 26. sect. 1. 2. *Of a Souldier for purloining*
Armes, Ch. 42. sect. 6. *Of him that refuseth*
to give Evidence, chap. 8. l. 7. *Of him that*
breaketh the Peace, chap. 23. sect. 2. ch. 23. l. 4.
Of an Alefeller, or Tippler, chap. 16. sect. 1. 2. ch.
 23. sect. 2. *Of a Person that is suspected of*
felony, Chap. 23. sect. 2.

Concealment, chap. 44

Conspirator chap. 15. sect. 4.

Constable. *His Office and duty*, chap. 26. sect. 1.

chap. 15. sect. 7. chap. 10. sect. 1. chap. 16. sect. 2

chap. 22. sect. 1.

Conviction of an offender, chap. 43

Correction. *House of Correction*. See Bridewell.

Counterfeiters of false tokens, letters, &c. chap.

42. sect. 16.

Crowes, chap. 42. sect. 20

D

Drunkards, ch. 15, s. 4. ch. 16, s. 2

F

Engagement, and the manner of it, ch. 42. sect. 26.

Egyptian, ch. 42. sect. 25

Estreats, chap. 12. s. 5. ch. 13. sect. 4

Enquiry, ch. 12, s. 5. ch. 13, s. 4

Escape, ch. 41

Examine, ch. 43, ch. 8. sect. 3. ch. 23. sect. 5

Excise, Chap. 13. Evesdroppers, chap. 15, s. 4

F

Families, such as run, or threaten to run away

from them, chap. 20

Felony and Felons, ch. 8. ch. 15, s. 4. chap. 23. s. 2.

Discharge, ch. 8. l. 3. ch. 23. s. 5.

Feme Covert, see women.

The Table.

Fine, *where and how*, ch. 12. f. 5. ch. 13. f. 9. ch. 27. sect. 1. Fishers, *see Hunters*. Fowlers, *see Hunters*. Forcible Entry, chap. 12. Fore-staller, ch. 23. f. 2. ch. 42. f. 15.

G.

Gaoler *refuse prisoners*, ch. 23. f. 6. Games, *unlawfull Games and Gamesters*, ch. 33. f. 2. ch. 42. f. 23. Guns, chap. 42. sect. 23.

H.

Hares, *see Hunters*. Hawkers, *see Hunters*. Hedge-breakers, ch. 15. f. 4. Heretic, *see Blasphemy*. High-ways, chap. 26. Horse, chap. 14. Hostlers, ch. 23. f. 2. Hunters, Hawkers, Fishers, &c. ch. 42. f. 11. chap. 42. f. 23. Hue-and-cry, chap. 8. f. 1. chap. 15. f. 4.

I.

Jesuites, *see Recusants*. Idle-livers, *see Lotters*. Imprisonment, *see Commitments*. Inrolment, ch. 42. f. 8. Incontinency, ch. 15. f. 4. chap. 23. f. 2. Indictment, ch. 12. f. 5. Infant, chap. 19. f. 1. 4. Inordinate person, *see Idle-livers*. Journey-men, *see servants*. Justices of Peace, *their power in generall*, chap. 1. *their danger, and cautions to them*, chap. 44. *their reward*, ch. 45. *abusers of them*, ch. 15. f. 4.

L.

Laborers, *see Servants*. Larceny perit. larceny c. 8. f. 11. Logwood, ch. 42. f. 19. Lotters, ch. 20. ch. 15. f. 4. Libeller, ch. 15. f. 14. Licenser, *see Testimonially*, 10 Ale-sellers, ch. 16. sect. 1. 10 Labourers, chap. 42. f. 13. 10 travellers, ibid. Lords Day, Chap. 2.

M.

May-poles, ch. 31. Maltsters, ch. 23. f. 2. ch. 42. f. 20. Masse, ch. 7. Millards, chap. 23. f. 1.

Ministers

The Table.

Ministers, Disturbers of Ministers preaching, ch.
4. chap. 15. f. 4. ch. 23. sect. 2. Mistrimys, ch.
41. ch. 8. sect. 5. Murder, ch. 15. f. 4.

N.

Name, ill Name, chap. 15. f. 4. Night-walkers,
ch. 11. how punished, ch. 11, ch. 15. f. 4. ch. 23,
sect. 2.

O.

Oath, in taking the oath of one robbed, ch. 42, f.
26. Of him that desires the peace, Ch. 16, f. 3.
Of Overseers of Cloth, c. 42 f. 22. Of Constables
& Sheriffs, ibid. Of any robbed, ibid. Of Al-
legiance, ibid. To a Recusant, ch. 7. To keep
the peace, Ch. 42, f. 22. Officers, the making of
them, ch. 22. f. 3. Their abuse punished, ch. 15.
f. 4. Their duty and power, ch. 16, f. 2. ch. 41.
ch. 15. f. 7. Order of Justices, Ch. 17. Ch. 19.
f. 10. Overseers of the poore, ch. 18, f. 1, 2, 3;
4, 5, 6, 7. Chap. 22. f. 2. Of Cloth, ch. 21. f. 1.
Of High-ways, Ch. 26. f. 1.

P.

Peace, Chap. 9. Surety of the peace where Grant-
able, and how, Ch. 15. Ch. 1. Ch. 9. f. 2. Ch. 13. f. 4.
against fighters, ch. 15, f. 2. against Rioters, ch.
15. f. 2. common Quarrellers, and such as are
breakers of the Peace, Ch. 15. 2. Breach there-
of, ch. 15, f. 12. Peace-breaker, Ch. 15. sect. 4.
Ch. 23. f. 4. how it shall be kept, Chap. 9. Re-
moving of Papists, Souldiers, & Delinquents,
ch. 42. f. 26. Papists, see Recusants. Priests
Popish idem. Plogue, Ch. 15, sect. 4. Ch. 42.
f. 22. Perjured persons, ch. 23. f. 2. Poor, how
provided for, ch. 18, chargeable on whom, chap.
18, f. 6. Partridges, see Hawkes. Possie Co-
mmitat. where it may be raised, and how, in ch. 1.

The Table.

sect. 4. in Chap. 13. f. 4. Pleading, Ch. 15. f. 9.
 Ch. 45. Preachers, *see Ministers*. Prison, Ch.
 23. sect. 6. Prisoner, Chap. 24. f. 2. *his charges*,
 Ch. 23. f. 7. Ch. 24. f. 2. Ch. 42. f. 2. Present-
 ment, Ch. 26. f. 1, 2. Ch. 44. Prozesse, Ch. 27.
 Ch. 19. f. 10. Prophesiers, Ch. 23. f. 2.

R.

Rates, ch. 24. In setting rates upon provision for
 Soldiers, Chap. 42. f. 26. Set a rate to have a
 Contribution for any of the Hundred charged
 with the whole execution, ch. 42. f. 26. For the
 poore, Ch. 18. f. 6. For the Plague, Ch. 24. f. 2.
 For a Robbery, Ch. 24. f. 2. For carrying a Pri-
 soner to Gaole, Ch. 42. f. 2. chap. 24. f. 2. For
 Bridges, Ch. 24. f. 2. Ch. 26. f. 1, 2. For Brew-
 ers, Ch. 24. f. 2.

R.

Release of the Peace or good behaviour, Ch. 15.
 f. 9, 12. Recognizance, Ch. 38. *how made*, Ch.
 15. f. 8. *where necessary*, Ch. 16. f. 4. For the
 Peace or Good behaviour, Chap. 1. 38. Of Par-
 tridge-takers, *fol.* Of Ale-sellers, Chap. 23.
 f. 2. Of Overseers of Cloth, and Clothiers,
 Ch. 21. f. 1. Discharge of it, Ch. 15. f. 10. ch. 38.
 Recusant, ch. 7. Ch. 42. sect. 15. Restitution.
where gainable, Ch. 12. f. 5. Retaining, *see*
 Servants. Riots, Rout, unlawfull Assembly,
 Ch. 15. f. 4. Ch. 44. Robber, Chap. 15. f. 4.
 Rogue, *who*, Ch. 18. *how to be used*, Ch. 18. f.
 12. Ch. 20. Ch. 18. f. 5. Ch. 23. f. 2. Ch. 42. f.
 2. Ch. 42. f. 22.

S.

Sacrament, *their depraver*. Chap. 5. Sale of the
 Bishops lands, and assisting the Officers and Tru-
 stees, Ch. 42. sect. 6. Sectaries, chap. 23. sect. 7.
 Sessions

The Table.

Sessions, what cannot be done out of it, Ch. 1, f. 7.
Ch. 8, f. 11. Ch. 22, f. 2. Ch. 42, f. 23. Ch. 43, f. 44.
Servants, Master, Labourers and Apprentices,
c. 19 retaining of them, C. 19, f. 4, 5, 6. their de-
meanor, Ch. 19, f. 6. their wages, ch. 19, f. 6. Com-
pellable to serve, Ch. 19, f. 2. their Discharge
and putting away, Ch. 19, f. 8, 12. their depar-
ture, Ch. 19, f. 9. Search, Ch. 8, f. 1, 9. Ch. 42,
f. 24. Settlement, Ch. 18, f. 6. Sheriffs, Ch.
45, Ch. 32, f. 6. Ch. 12, f. 5. Sculdiers maimed,
Ch. 34. Superfedeas, Ch. 39. Ch. 12, f. 5, 6.
Ch. 15, f. 9, 10. Superstitions. Supplicavit,
Ch. 43. Ch. 15, f. 7. Subsidy, Ch. 42. sect. 20.
Superstitious Reliques, Ch. 31. Supravisors,
see Overseers. Surveyors, see Overseers.
Swearing and Cursing.

T.

Testimoniall, Of Labourers, Ch. 19, f. 9. Ch. 42,
f. 13. Of servants, Ch. 42, f. 13. Of Travellers
see Licenses.

Theeves, Messengers for them, Chap. 15, sect. 4.

Tiplers, Chap. 16, f. 1. See Labourers.

Tythes, Ch. 29.

Trades, who may use them, Ch. 19, f. 1. who must
serve, Ch. 19. sect. 2.

Travers, where and how, Chap. 12. sect. 5. Chap
13. sect. 4.

Trespassers in robbing Orchards and wood, Chap.
42. sect. 1.

Tryall of offenders, Chap. 43

V.

Vagrant, see Rogues.

View, Chap. 12, sect. 5. Chap. 13, sect. 4.

W.

Wages of Justices, Chap. 45.

Of

The Table.

| | |
|--|---|
| Of Servants, | Chap. 19. f. 87 |
| Warrants, Chap. 27. when and how grantable to whom and against whom Chap. 27. f. 1. Chap. 12, f. 5. Ch. 13. f. 4. Ch. 15, sect. 7. 7 | |
| To levy Tythes, | Ch. 42. f. 5. Ch. 29. f. 2 |
| Against Tipplers and Ale-men, | Ch. 18. f. 12 |
| To require men to give sureties, | Ch. 40. Ch. 15. f. 7. |
| Against Rogues, | Ch. 18. f. 14 |
| To the Sheriffe, | Ch. 12. f. 15 |
| Against Clothiers, | Ch. 19. f. 12. Ch. 21. f. 2 |
| Against Officers for not taking or not doing their Office, | Ch. 22. f. 2. 19 |
| Against Hunters, to search, | Ch. 22. f. 6 |
| Against them that pay not Rates, | Ch. 24. f. 2 |
| Against Witnesses, | Ch. 27. f. 1. |
| To gather money to send a Prisoner to Gaule, | Ch. 42, f. 2. |
| Watch and Watch-word, ch. 10. how it must be kept, Ch. 10. f. 1. the neglect punished, Ch. 15. f. 4 | |
| Wax, | Ch. 42, f. 18 |
| Weights and Measures, | Ch. 26 |
| Wine, | Ch. 42, f. 9 |
| Women, | Chap. 7. Chap. 16. f. 1. Chap. 19. f. 2 |

FINIS.

THE
SECOND PART
OF THE OFFICE
OF THE COUNTRIE
Iustice of Peace.

WHERIN
Is plainly set down, their
power and duty in the
SESSIONS.

By *William Sheppard* Esquire.

Psal. 82. 1.

*God standeth in the congregation of the mighty, he judg-
eth among the gods.*

Prov. 21. 3.

*To do Iustice and Iudgment is more acceptable to the Lord
then Sacrifice.*

LONDON,
Imprinted for *W. Lee, D. Pateman, and
G. Bedell.* 1650.

THE
SECOND PART
OF THE OFFICE
OF THE COMPTROLLER
JUSTICE OF PEACE.


WHEREIN
is plainly set down, their
power and duty in the
Sessions.

By William Elphinstone.

LONDON,

Printed for W. J. Innes.

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The second part of the office of the country Justice of peace.

CHAP. I. *Of the Sessions.*



The Sessions is a Court where the Justices of the peace, do sit for the execution of their office.

Sessions
what.

There are two kinds of Sessions; the general or Quarter Sessions, is that court or sitting, wherein all the Justices of the peace do sit together, for the general execution of their authority and commission over all their limits; these are called quarter Sessions, because they are kept quarterly, four times in the year; they are also called open Sessions, because they are kept in an open place, and principal Sessions, because herein the authority of the justice of peace doth principally appear. The special or privy sessions, which is a sitting procured upon some special occasion, not for the general service of the commission, and commonly in a private way or place, for the more speedy execution of justice, in some special cases; as for the inquiry of riot, or forcible entry, placing of servants, or the like. It is called

Sess. I.

How many
kinds.
General.
Special.

Riot.

Cap. I-

Servants.

Gaole De
livery.

Quorum.

also a Statute Sessions, being enjoyed by certain Statutes, that they should meet at certain times in every hundred, and that the Constables of the Hundred do come thither, and that Masters and Servants do appear, for the deciding of differences between them; for the rating of servants wages, and the bestowing of people that are fit to serve, and refuse, or cannot get Masters in service. And these are of special use, to deliver Goales of unruly servants, petty thieves and others, which get no good by lying there. But it is held if there be one justice of the *Quorum* present, they may hear and determine any article within the commission of the peace at this Sessions, as well as at the Quarter Sessions, and accordingly they may give in charge what shall seem good to them, so also upon Statutes as give them a general power of inquiry without restraint to the Sessions as that Statute of 25. of H. 8. 13. of sheep, and upon all Statutes that do use the word Sessions, indifferently without adding, general or special, as 5. Edw. 6. c. 4. of fighting in a Churchyard or Church; 14. Hen 8. ch. 11. 19. Hen. 7. c. 11. of hunting, 5. Eliz. ch. 13. of linnen cloth, 2. & 3. Ph. & M. ch. 7. of faires and markets and others. But not of other Statutes whose inquiry is to be at the Quarter Sessions, 14. H. 7. 8. 37. H. 8. c. 7. 14. H. 7. 8. 14: H. 6. ch. 4. 5. Eliz. ch. 4. Lam ch. 19. 20. It seems therefore to be a more apt division, thus. The Sessions is either open or private. The open, is either general, as Quarter Sessions, or Special, as other Sessions, at other times. The private, is that which is done in a private way, for some particular service. Or thus Sessions is either General; for all the work of justices

Of the Sessions.

3

Cap. 1.

justices of P. in general. Special *i.* for some especial services ; or particular *i.* for some particular work.

The general Sessions of the peace, must be held four times a year at least, (more if need be,) at the times it is usually held; once in every quarter, (to wit)

Sect. 2.
The time.

In the first week after

St. Michael.

The Epiphany.

The clause of Easter.

The translation of St.

Thomas the Martyr, being the seventh of July.

It is *Daltons* opinion; that the weeks wherein the feasts happen must be first ended before the Sessions can begin. But herein it is safest to follow the custome of the place, *Dalt.* just. of the Peace. 16. And thus it must be holden through the Realm. And it cannot well be kept at any other time; the Iustices were bound by their oathes to keep at this time, but this clause is now omitted, it may be continued, one, two, or three dayes, or more, as there is occasion of business to dispatch; for the time of keeping the Sessions for labourers, it may betwix a year, between *Michelmas* and *Christs Nativity*, and between the Anunriation of the Virgin *Mary*, and the Nativity of *St. John Baptist*. But any other special Sessions may be holden at any time when please the justices to appoint, 33. H. 8. 12. R. 2. 10. ch. 10. 37. H. 8. ch. 7. 2. H. 5. ch. 4. Lamb. 597. 623. 36. Ed. 3. ch. 12. 14. H. 6. ch. 4. 3. If the Sessions be held at any other time, it seems their acts are good, and the Iustices onely punishable, for the Statutes are no: in the negative, (and not at any

4
Cap. 2.

Of the Judges there

Set. 2.
The place.

other time,) *fieri non debet, sed factum va-*
let.
It seems it may be kept in any place of the
Country, the most apt place, is the most eminent
place of the County, the principal and chief
Towns, and where it hath been used to be held, by
the Statute of, 14. H. 6. ch. 3.

CHAP. II.

Of the Judges there which be Justices of Peace.

Set. 1.
The Judges
in these
Courts.

Quorum.

Records.

THe judges in the General or Quarter Ses-
sions, and in the special or particular
Sessions are the same, being the Justices of
the peace of the County, who are appointed by
the Commission to attend the peace of their Coun-
ty. And amongst these some are for special re-
spects made of the *Quorum*, because some busi-
ness of importance, may not be done without the
presence, or assent of them, or one of them. They
are so called, because the Commission is thus
Quorum. A. B. C. Unum esse volumus. And the most
eminent man amongst these, is commonly the
Custos Rotulorum that keepeth all the Records.
These are all of them judges of Record, and have
a judicial power; and therefore cannot depute
any under them to execute their office. And the
Acts done before them are Records, against the
truth whereof no Averment lyeth. For in some
cases it is of greater credit then any presentment
by a grand Jury, and it is not Traversable. This
Record

which be Justices of Peace.

3

Record, *Sedente Curia*, is in *Scriinio pectus*. Of Cap. 2.
these Judges, and amendable; but after it is entered in the Rolls, it is not to be altered. And hence it is that a *Superfedeas* of the peace, made by one Superfedeas.
Justice of Peace under his seal, brought into the Court, is a sufficient record, to prove that there is a recognizance of the peace, taken by the same Recognizance.
Justice of peace, and warrant enough to call the party bound thereupon, and if he make default to record it. *Lamb. 1. Book ch. 13.*

The general Sessions cannot be kept with less than two Justices of the peace, and one of these must be of the *Quorum*. Quorum. And in cases where more than two are necessary, to do any thing out of Sessions, there it cannot be done by fewer in the Sessions. And albeir one may do many things out of Sessions, yet the same thing may not be done at the Quarter Sessions, with fewer than two Justices of the peace, and one of them of the *Quorum*. Justices. But the special or particular Sessions, may be kept by one or more Justices of peace, according to the nature of the work there done, for as to the execution of all their power given them by their Commission, and all such Acts of Parliament, as require two Justices of peace, *Quorum unus*, there they must have two such Justices. But where power is given to two other Justices of peace, as to send to the house of correction such as will not work, or the like, or to one Justice of peace, as in a forcible entry, or the like, there the Sessions may be kept by such Justices of peace, and is good for these Acts. And in these Courts their power is joyn't, yet so that if one or one see a Riot, he alone may record it, and imprison the party. *Ritz. Just. of Peace. 8.*

C H A P. III.

Of the persons over whom they have power.

Señ. 1.
Over what
persons
their power
is to be ex-
ercised.
Justice of
Peace.

THeir power is over all persons within their County. They have some power also one over another, for a Justice of peace of the County may be indicted in this Court, as another man for any offence here triable. But one Justice cannot Amerce another for absence, as the Justices of Assize may do nor can one of them imprison another, for any abuse offered to him, for *Inter pares non est potestas.* Lamb. fo. 385.

C H A P. IV.

Of the place of their power.

Señ. 2.
In what
place their
is to be ex-
ercised.

THe power of these Judges in the Sessions, and out of the Sessions, is to be exercised in their own proper County onely, and not else where. Therefore they are not to intermeddle in other Counties, nor in any City which is a County it self, where there be speciall Justices of peace for the place, nor in those places within the County where they have a Charter, and therein a special prohibition to the Justices of the County, that they meddle not there; and Justices are appointed for the place. And yet perhaps, in this last case the acts that
such

such Iustices do there may be good, but they may be subject to punishment for the doing thereof. But they may intermeddle in all Corporate Townes, Liberties, and Franchises within the Countrey, which have return of Writs, but no proper Iustices of peace. And if a place lye within two Countreys, or part in one Countrey, and part in a City, and each may intermeddle with their own part. So that if a house holden by force be within two Countreys, and when the Iustice of Peace of one Countrey comes, the force is removed into that part which is in the other Countrey, he can do nothing, 14 *Eliz.* 5. 5. *Eliz.* 4. 39. *Eliz.* 4. 43. *Eliz.* 3. *Dalt.* J. P. f. 27. 117. *Lamb.* J. P. 92.

The Iustices in their Countrey, cannot punish an offence done in an other Countrey, on a penal law, but in some special cases where the law gives them power so to do, as in the cases of Guns, Partridges, 1. *Jac.* 7. *Jac.* 5. *Eliz.* 4. when the Statutes give power to punish where the offender shall be taken and 22. *H.* 8. 5. for reparation of Bridges, where a Bridg is in decay, and he that should repair it, lives out of the Countrey; in this case they may proceed against him, as if he lived in the same Countrey, or that it be for matters of felony, or the Peace, or the like.

Iustices of the peace living out of their owne Countrey, cannot there exercise any Iudicial act of their Iurisdiction, as take oathes, examinations, or Recognizances, make warrants, or the like, nor can they cause offenders to be thither brought before them, out of the Countrey, but such Acts so done, are voyd. But it is held, that he may do any ministerial act, as take the oath of one that is

Cap. 8.

is robbed, or the like, as well without as within his County, and they are good. So in *Malby's Case*. 7. Car. B. R. Per Curiam.

CHAP. V.

Of the power of the Justices of the Peace, in the Quarter Sessions.

Sect. 1.

The power and duty of the Justices of Peace in the Quarter Sessions and what may be done there. Peace.

Peace
breakers,

ALL the power of the Justices of Peace, is derived unto them two ways. 1. By the Commission of the Peace. 2. By divers Acts of Parliament. By both which they have a power or Jurisdiction, and a power of Correction, and all the power which the Ancient Conservators of the Peace had, and much more. They are to labour to keep the Peace, withhold men from, and suppress injurious force and violence against mens persons, goods, or possessions, restrain offenders, riotters, and all other barrerors. And for their duty in the Quarter Sessions, in general this is to be known. That all that they may do out of the Sessions, or at any other Sessions, they may do at this Sessions, and much more; for every Quarter Sessions, is a Sessions, though every other Sessions be not a Quarter Sessions. See therefore *Infra*, what may be done by special Sessions, or out of Sessions. Herein they may and must endeavour to keep the Peace and all the Ordinances and Statutes made for the conservation thereof, and for the quiet government of the people.

Power of the Justices of Peace &c.

9

Cap. 5.
Rioters.
Felon.

people hear and determine at the keepers of the liberties suit all trespasses against the peace, and many felonies, and inflict punishment according to law, pursue, take, arrest, and chastise offenders, Rioters and all other Barretors, according to their offence, the lawes, and their own discretion, take sureties of the Peace of them that break the Peace, and good behaviour of them that be not of good fame, or that they suspect. So they may, and must see, the Statutes for hue and cry after fellows, against murtherers, robbers, fellows, night walkers, affrayers, those that wear Armour *in terrorem* that make Riots, forcible entries, Roberies, that are come from beyond Sea, and wander about, and live idly here, and all the Statutes against force and violence against the peace, put in execution. And in cases where they do suspect, they may arrest, examine, and if they see cause, imprison. *See Commission of the Peace*, 18. Ed. 2. Stat. 2 ch. 2. 1. Ed. 3. 15. 34. Ed. 3. 1. 4. H. 7. 12. 33. H. 8. 10. 37. H. 8. 7. More particularly.

Surety of
the Peace,
or good
behaviour.

First, they may enquire and take Indictments of all Treason, and misprision of Treason, but cannot proceed to heare and determine them. *Self. 2. Treason.*

Secondly, they may in this Court hear and determine all felonies by the Common law, and some think that the Iustices in this Court may determine any felonie, great or small, and deliver the Goale of all felons. But this is much doubted by others, and held that they cannot deliver suspected persons by Proclamation. For if an Indictment be against a man for any thing above petit Larceny, and the Grandjury finde an *Ignoramus*, upon it the Sessions cannot deliver him. *Resolved.* *Felonies.*

solved by the Judges temp. Car. Reg. 2. but they must binde him over to the Assises, there to be acquitted. *Fitz. 7. P. 14.* The most common practise therefore is, that all the prisoners that are in question for any felony above petit Larceny, are referred to the Gaole delivery, for albeit it be out of question, that for such felonies, as are so by the common law, and by any statute, the Iustices of Peace in this Court have power to hear and determine, as such as are turned over by Sheriffs out of their turn, and others that in strictness they may hear and determine it, yet this is not usual, 1. *Et. 4. 2.* But there are some felonies, as upon, 3. *H. 7. 18. 33. H. 6. 1.* And the 8. *H. 6. 12.* for imbesilling Record, and, 5. *Eliz. 4.* for forging of Deeds, that they have not to doe with in this Court. So where one is smitten, or rake goods in one County, and dye, or cary the goods into another County, or is indicted as an Accessary to a principal in another County, in these cases and such like, as where there is an indictment taken before any other, they cannot hear and determine these felonies, for they are Iustices onely of this County, and can try Indictments onely taken before themselves. And if Indictments be taken before them of such things, as whereof they have not Conuance, they are void, *Dalt. Just. P. 65.*

Stat. 3.
Trespases,

Thirdly, they may hear and determine all trespasses against the publike peace.

Fourthly, they may enquire by Iury of all offences against the common, or Statute law, belonging to their Conuance.

Fifthly, they may take view of all presentments and indictments, made or found by the Iury.

Sixthly,

Sixthly, they may grant out process against the offenders, to cause them to come in to answer.

Seventhly, they may take and try such offenders upon any former or present Indictment or presentment, before themselves, or any other Iustices of Peace there after the offenders do appear.

Eightly, they may upon conviction give Judgment of fine, Amercement, or otherwise, as the cause deserves, and inflict punishment, and see execution done according to the lawes. And all this they may do in their other Sessions.

Ninthly, and they may in this Court also hear and determine all offences, which by any Statute law are referred to their determination: And here it is to be observed, that many Statutes give the Iustices of Peace power to do some things in their Quarter Sessions, which they do not give them power to do in their Special or private Sessions. For when a Statute gives them power to hear and determine, and doth not say where, nor how, or gives them power to do it in their Sessions, and saith not what Sessions: there it may be done at any Sessions. But where a Statute gives power to the Quarter Sessions, as 32. H. 8. 13. about herfes, 43. Eliz. 3. about poor, 5. & 6. Ed. 6. 25. about enquiry of the breach of a Recognizance, 4. Jac. 5. about drunkenness, 5. & 6. Ed. 6. 21. Jac. 22. about ingrossing. 1. Ed. 6. 1. about sending a Writ to the Bishop, and many others. Or to the General Quarter Sessions as, 5. Eliz. 9. about Perjury, 4. Jac. 5. about drunkenness, ordinance for the *Directory* and others; or to the General Sessions, as 2. & 3. Ph. & M. 3. about kine and calves. Ordinance for the *directory*,

Quarter Sessions.
Secd. 4.
 About herfes.
 Poor.
 Recognizance
 Drunkenness.
 Ingrossing
 writs
 Perjury.
 Drunkenness.
Directory.
 Kine.
Directory
 4. H.

Cap. 5.

Searchers of
Pewter.False to-
kens.

Wages.

Souldiers.

Logwood.

Pewter and

Brass.

Bridges.

Drunken-
ness.

See after

Chap. 9.

Sect. 2.

About Rec-
usants and
papists.
maintaining
the authori-
ty of the
Pope.Proclama-
tion.

Conviction.

Record a

presentment

Recusant.

4. H. 8. 7. about Searchers of Pewter, 33. H. 8. 1. about cheating by false tokens, &c. 1. Iac. 6. 2. about rating wages, 39. Eliz. 17. about Souldiers, 39. Eliz. 11. about Logwood, 4. H. 8. 7. about Pewter and Brass. See 22. H. 8. 5. about repairing of Bridges, in these cases the private Sessions cannot meddle with it. So also it seems where it is ordinary Sessions, as 4. Iac. 5. about drunkenness. But for the opening of these things more fully, these things are to be known. That the Iustices of the Peace in the Quarter Sessions are enabled to do many things by divers Acts of Parliament, which must be pursued, as in these particulars following.

1. They may in this Court enquire of all the offences against the Statute of, 5. Eliz. 1. about the maintaining of the authority of the Pope, and then they must certifie the presentment taken before them, into the upper Bench within 40. dayes, if it be Terme time, or the first day of the next Terme *Subpena* i hundred pound, and this cannot be in another Sessions.

2. They may here hear and determine a Offences except Treason, and misprison of Treason, against 23. Eliz. for retaining the subjects in their due obedience.

3. Make Proclamation against a Recusant indicted for not comming to Church, or not receiving the Sacrament, that he render his body to the Sheriffe before the next Quarter Sessions, when if he doe not appeare, hee is convicted by this. 3. Iac. 4.

4. Receive and cause the Clarke of the Peace to record the Presentment of the Monethly absence of a Recusant from Church. 3. Iac. 4.

5. So

5. So to record the Certificate of the Certificate of the Minister and Constable of the name and place of dwelling of the Popish Recusant upon

35. *Eliz.* 1.2.

6. Foure of the Iudges of this Court, in the Court may give warrant to take away from the Recusant all his Armour, Gunpowder and munition, other then necessary weapons for their defence; and to place and maintaine them elsewhere at their charge. And if they refuse to deliver them, or oppose it, they forfeit them, and may be imprisoned three Moneths without bayle by these Iudges from this Court. 3. *Jac.* 5. 6. Give the forfeiture due from a Popish Recusant to him that sueth for it in this Court. 3. *Jac.* 4.

Warrant to take away Armes.

Commitment.

7. In this Court the Iudges may take the open submission and promise of conformity from a Recusant refusing to come to Church, or him that keepeth a Recusant Schoolemaster, or him that is in question for any offence but Treason, or imprisonment of Treason within the Statute of 23 *Eliz.* 1. Before his Indictment or at his Arraignment or Triall before Iudgement, this being the first offence, and hereupon hee shall be discharged. And these things cannot be done at any other Sessions.

Sec. 5.
Take a Submission.

They have also herein a power in divers other particulars by divers Statutes, which we will lay downe in the next place all together.

CHAP.

Of their powers in particulars.

Seſſ. 1.
About Ab-
juration.

THe Abjuration of a Seditious Secretary must be made at this Sessions, and entered of Record upon 35. *Eliz.* 1. and cannot be at any other Sessions, of Iustices of Peace; yet a Popish Recusant may abjure before two Iustices of Peace out of Sessions by 35. *Eliz.* 2.

Seſſ. 2.
About
Transporta-
tion of
Corne.

They may by Order at this Sessions if they see cause, forbid the Transportation of Corne beyond Seas, after the Iustices of Assise and others having authority to doe it have first permitted it. 13. *Eliz.* 13. which they cannot doe the in private Sessions.

Seſſ. 3.
About the
Division of
a wood.

They may at this Sessions, and not at a private Sessions, upon a motion, make an Order to two of the Iustices of the Peace, not being of Kin, alliance, counsell, or free to either party to set out a fourth part of the Soyle, wherein another hath wood which hee intends to cut downe, the same being to bee set out before the wood is to be cut. 35. *H. 8.* 17. 13. *Eliz.* 25.

Seſſ. 4.
About over-
sight of the
Sheriffes
Bookes.

At this Sessions held next after Michaelmas the *Custos Rotulorum*, or two of the eldest Iustices of the *Quorum* must appoint the two that are to oversee and controul the Sheriffes and his under Officers Bookes of Amercements, and this cannot be done at any other Sessions of the Iustices of Peace. 11. *H.* 7. 15.

Seſſ. 5.
About the
Assessment
of the prices
of Vessells.

At the Quarter Sessions after Easter the Iustices of Peace are to set down the prices of all Vessells

Of their power in particular.

15

Chap. 6.

of Ale Sops and Bette that shall bee made and sold out of all Cities and Corporate Townes, 23. H. 8. 4. 8. *Eliz.* 9. *Dalt.* I. P. fol. 184. which cannot be done at their Speciall Sessions.

In this Court, and not any Speciall Sessions, the Iustices of Peace may punish by fine of 20 l. and Pillory the deceiptfull users of Logwood, upon 39 *Eliz.* 11. And he is to be set in the Pillory in the Market Towne, where the offence was done, or if it be out of a Market Towne, then in next Market Towne, there to be all Market time, one or more dayes as the Iustices think fit.

Sect. 6.
About users
of Logwood
Fine.
Pillorie.

In this Court and not in any other Sessions they may and must restraine, suppress or discharge the superfluous number of Maulsters in part or in all by 39 *Eliz.* 16. And also restraine such as they thinke fit to be restrained from buying of Barley to convert into Malt in part or in all for such time as they shall think fit, which if they obey not, any two Iustices of Peace may punish out of Sessions.

Sect. 7.
About con-
verting of
Barley into
Malt.
Order.

Heere and not in the other Sessions they may for a time forbid them that by butter and cheese within their Country under paine of the double value of the things upon 3. and 4. *Ed.* 6. 21. 21. *Iac.* 22.

Sect. 8.
About buy-
ing and sel-
ling of but-
ter and
cheese.

Forestallers, Reegraters, Ingrossers, Badgers, and Drovers, are to be punished, hereupon, 5. & 6. *Ed.* 6. 14. and 5. *Eliz.* 12. and this cannot be in the Special Sessions. See *fol.*

Sect. 9.
About Re-
egrators For-
estallers, &c.
About Cloth
Sect. 10.

The distribution of the penalties for want of weight, length, and measure of cloth, two parts to the poor, and one part to the overseers, and searchers, if it must be at any Sessions, must be at the Quarter Sessions, by 21. *Iac.* 18. *Sed*

B b

Quare

Cap. 6. *Quare bien.* for much may be said to prove that it may be done out of Sessions.

Sect. 11.
About
making and
ordering of
officers.

Sect. 12.
Searchers of
Pewter.

Sect. 12.
Treasurers
of the
County
stock.

Two searchers of Pewter and Brasse upon, H. 8. 7. must be made by the Iustices at this Sessions next after *Michaelmas*, and they may be made at any other Sessions.

Treasurers of the County stock for reliefe of poor maimed souldiers and marriners, are to be chosen at this Quarter Sessions, next after *Easter*, and not elsewhere, of sufficient men, for one year, by 43. *Eliz.* 2. So also the Treasurers for the releife of the prisoners in the Kings Bench and Marshalsey are to be chosen at the same Quarter Sessions, and not elsewhere, of able men, for one year, upon 43. *Eliz.* 2. So Treasurers for the reliefe of maimed souldiers, and the widows and orphans of souldiers, slain in the last wars, are to be chosen at any Quarter Sessions, by the Ordinance of *May*, 1647.

Sect. 13.
Collector
of the mo-
ney for the
Gaole.

Sect. 14.
Common
Informers.

Sect. 15.
Clarks of
Courts,

The Collector for the money for relief of the prisoners in the common Gaole, is to be chosen by the Iustices in this Court, and not elsewhere, & may be longer then a year in his office, 14. *Eliz.* 4.

If any common Informer following his suite by Deputy and not in person, or by his Attorney, or if he compound with the offender before answer, or after, without licence of the Court, he must be punished in this Court, and it cannot be at a private Sessions, 18. *Eliz.* 5.

So if any Clarke that receives the information, do not set down the day, moneth, and year of exhibiting it, or not indorse upon the proceffe, the Informers name, and the Statute upon which hee goes, 18. *Eliz.* 15. or make out proceffe before this bee done, the penalty of

off forty shillings is to be imposed here, and if the Informer have his hand in this, or take reward without license of one of the Courts of Westminster or compound without licence, he is to be put in the Pillory two hours in a Market Town, made Pillory, to pay ten pound fine, and put out of his office by this Court, and not any other Sessions.

The officers which are made at this Court, and cannot be made by any other Sessions, may not properly be punished for their faults elsewhere, but are to be punished at this Sessions: But for other officers that are makable, at either of the Sessions, or are equally attendant to both; they may be punished at either of the Sessions.

The master of the house of Correction is to be made by the Iustices of Peace at their Quarter Sessions, and not elsewhere; and he is to continue for longer then one year, 30. Eliz. 4. 7.

Sect. 17.

Master of

Bridwell.

Iac. 4.

As touching that which concern the Iustices of Peace, these things are to be known.

House of

Correction.

1. That they may at this Quarter Sessions and at no other Sessions take order, by building a new or converting an old house, to prepare and erect one or more houses of Correction, in what place of the County they shall think fit.

2. They may there cause them to be assured on whom they please in trust for this use. And this may be done without any license from the keepers of the liberties, and may be incorporated also if they please.

License

3. They may also take order here to provide a stock of money and other necessaries as a back-side Mills, Turn cards, to set Rogues and others

Cap. 6.

to work, for these houses are to be houses of work for the orderly, as well as places of punishment for the disorderly.

Orders.

4. They may here set down orders from time to time, for the government and ordering of the house stock and persons in it, appoint and give allowance to Governors.

Rogues.

5. They may here take order for the sending thither and punishing of Rogues, and other idle and disorderly persons, who are not to charge the Country but to live there by their labour.

6. At this Court, they may punish or remove the Governour, according to their discretion, for his neglect of his duty, 39. *Eliz.* 3. 4. 7. *Jac.*

Sect. 18.

About a
Certificate.
Of an oath
Recusant.

4. The Certificate of the refusal or taking of the oath of Allegiance, required by two Iustices of Peace, by a conforming Recusant returning into England, is to be sent in thither, 3. *Jac.* 4. 7. *Jac.* 6. and may not be sent in to the other Sessions.

Sect. 19.

Highwaies.
Presentment

Fine.

They are to certifie to the next Quarter Sessions, and not elsewhere, all the presentments of any Supravisors of highwaies brought in to them, 5. *Eliz.* 13. 18. *Eliz.* 9. And this cannot be at the other Sessions. And here the offenders are to be fined.

About Re-
cognizan-
ces.

Discharge.
And suing
of it.

He that is bound by Recognizance for the good behaviour for seven yeares for unlawful hunting, breaking of the head of Fishponds or the like, upon his acknowledging of his offence and giving satisfaction to the partie wronged, in this Quarter Sessions, may then and there, be discharged. And after this Sessions, he may be discharged at other Sessions. And if the offender

Of their power in particular,

19

Cap. 6.

do at any open Sessions confess his fault, and give satisfaction to the party grieved, he may release him within the seven years, 3. Jac. 13. 5. Eliz. 21.

The Iustices of Peace may in this Court, by presentment, information, or otherwise, as they think fit, inquire whether Ale house-keepers have done any act to forfeit their Recognizance, and if they have, send for them in by procelles to shew why it should not be leyed, and hear and determine the same according to their discretion, 5. & 6. Ed. 6. 25.

Sect. 20.
Ale-house-keepers.

In this Court and not any other Sessions of the Peace, the Iudges might have required the oath of Allegiance of them who formerly refused it. And if they refuse, it being here tendered they incur a Premunire, 3. Jac. 4. 7. Jac. 6.

Sect. 21.
About requiring or giving an oath.

The fine to be set upon him that hunteth disguised by night, and confesseth it upon examination, must be set at this Sessions, by 1. H. 7. 7. and cannot be set at the other Sessions of the Peace.

Allegiance.
Sect. 22.
About him that hunteth by night &c.
Fine.

The rating of wages for labourers and servants, must be at the Quarter Sessions after Easter, or within six weeks after, and cannot be at any other time, or in any other place, 5. Eliz. 4. 1. Jac. 6. 39. Eliz. 22. 1. Jac. 25. And at this Sessions they must examine how it is observed. Yet see 13 R. 2. 8.

Sect. 23.
About making rates, or rectifying of them.

In their Quarter Sessions after Easter, and in no other place, nor at any other time, they may and must, for the relief of the prisoners in the Kings Bench and Marshalsee, rate all the parishes of the County weekly, as they think fit, so as no parish be under a half penny, and at or above

For prisoners in the Kings Bench and Marshalsee.

Cap. 6. six pence, and all the County together, but at two pence a parish weekly, and appoint Treasurers to receive it, and at the years end appoint new Treasurers, and call the old to account, and appoint how the surplussage of money shall be disposed. And these Sums are to be rated upon the parishes by the Constables or Churchwardens, or in their default, by one Justice of Peace. 43. *Eliz. 3. See.*

And the Justices are here to set down how much shall be sent Quarterly to the Kings Bench and Marshalse, but it must not be less then twenty shillings a yeare to each of them. This money is to be levied and paid to the High Constables, who is to pay it at every Quarter Sessions to the Treasurers.

For Prisoners in the common Gaole.

They may here rate every parish in the Shire for the relief of the prisoners in the common Gaol as they think fit, so as they exceed not six pence, or eight pence, a week upon a parish. And this being levied by the Churchwardens, & paid over to the High Constables or head Officers of the place, they are to pay the same at this Sessions, so such as the Justices in this Sessions shall appoint to be there ready to receive it, 1. *Iac. 2. 14. Eliz. 5.* And this cannot be done at the other Sessions.

For maimed Souldiers, &c.

They may, and must at the Quarter Sessions after *Easter*, and not else where, or otherwise rate the whole County, for the relief of maimed Souldiers and Marriners, no parish above ten pence, nor under two pence weekly, & if there be above fifty parishes in the County, the whole rate must not exceed six pence a parish. 43. *Eliz. 3.* and they may at any Quarter Sessions, set the like, or a greater

Of their power in particular.

21

Cap. 6.

rate, not above two shillings six pence, nor under two pence a week on a parish, on the County, for help of maimed souldiers, widdows and orphans of men slain in the last warre. And these monies the Churchwardens & Constables of every parish must collect and pay to the High Constables ten daies before Quarter Sessions, and the High Constable to the Treasurers at the Sessions 43. *Eliz.* 3. Ordinance of Parliament, May 1647. and August. 1647.

If a parish or hundred be not able to relieve their poor, the Iustices at this Sessions, not at a petty Sessions, may rate any place within the County, to be contributory, 43. *Eliz.* 2. And if the poor have parents, or grand parents, children, or grandchildren, that are able to relieve them, the Iustices may at this Sessions compel them to contribute towards their relief, 43. *Eliz.* 2.

For the poor,

If any be grieved by a rate made for the poor, or in any of the cases before, he must be relieved here, and cannot be relieved elsewhere, 43. *Eliz.* 2. 14 *Eliz.* 5. 18. *Eliz.* 3. So of a rate made for the Church, upon the Ordinance of 8 February, 1647.

An over rate.

The taxes made by two Iustices of Peace in the County for the relief of them that are sick of the Plague, being sent into this Sessions, (as they must be,) may be there continued, enlarged, or extended to any other part of the County, as the Iustices shall see cause, 1. *Iac.* 3.

For them that have the plague.

The Assignment and Revocation of pensions, for souldiers maimed, old and new, and of the widdows and orphans of souldiers, slain in the late warres, and Marriners, must be by the Iustices, at this Sessions, and cannot be at any other

Sect. 24. About assignment of pensions.

Cap. 6.

Sessions, and here they may set down or alter as they see good. And here they may fine the Treasurer if he refuse to pay it, 1. *Iac.* 25. 43. *Eliz.* 3. Ordinance of May 1647. December 1647.

Sect. 25.

About disposal of the surplusage of Stock in the Treasurers hands.

The Iustices may here dispose of the surplus of the Conntey stock to charitable uses, according to the Statutes for the relief of the poor, and punishment of Rogues, 43. *Eliz.* 3.

Sect. 26.

About the ordering of the poor, or Rogues.

Settlement Binde poor apprentices.

Rogues.

The ordering of matters of the poor if any thing be amiss done by the Overseers and Churchwardens, must be at this Sessions. And therefore the removing and settling of poor, unless they be Rogues, is to be done by order of this Sessions. And here they may, as they do out of Sessions, (if they will,) binde the poor children Apprentices, 43. *Eliz.* 2. But it seems the questions about Rogues may be determined at any Sessions, upon 39. *Eliz.* *Dalt. Inst. P.* 120. except dangerous Rogues, who are to be punished at this Sessions by a brand, with a hot Iron, &c. 39. *Eliz.* 4. 7. *Iac.* 4. But for the point of settling, see in the other point of the Iustice of Peace office, in Chap. 18.

About setting up of a cottage. Poor.

It must be by order of this Sessions, that the Churchwardens and Overseers of the poor, with consent of the Lord of the Mannor, may set up a Cottage on the wast ground there, 39. *Eliz.* 3. 43. *Eliz.* 2. and it cannot be done elsewhere.

Sect. 27.

About granting licences For Wine.

They may at this Sessions licence the selling of wine, in Townes that are not Corporate, and otherwise none may sell but by special grant from the King, 7. *Ed.* 6. 5. And this cannot be at another Sessions.

Of their power in particular.

23

A license to him that keepeth Hawks, to shoot **Chap.6.**
 haillhot in a Birding piece or hand-gun, at Crow, For shoot-
 Pye, Chough, Rook, Ringdove, or lesser bird for ing.
 hawks meat onely, must be had at this Sessions,
 1. *Iac.* 27. not elsewhere.

Drovers of Cattle, Badgers, Laders, Kidders, For dro-
 Carriers, buyers and transporters of Corn, Grain, vers, &c.
 Butter and Cheese must be licensed at the Quarter
 Sessions, and cannot be licensed elsewhere. And
 here it must be under the hands and seales of 3.
 Justices of Peace, *Quorum unus*, neer the place
 where the party hath dwelt 3. years before; nor
 may they so license retainers or householdser-
 vants, but householders, married men, and of 30.
 years old; nor may they give to them any license
 for longer time then one year, from the date of it.
 which must be at the Sessions, otherwise they are
 void, 3. *Ed.* 6. 14. 5. *Eliz.* 12. 13. *Eliz.* 13.

They may here if there be four *Quorum unus*, *Seß.28.*
 present hear and determine all nufances in Bridg- About re-
 es in the Highwaies, and of the Highwayes 200. pairing of
 foot at the end of the Bridge, to the damage of the Bridges, and
 people, and make out such procelle and pains up- the 1 gh-
 on presentments; for the speedy amending there- waies adja-
 of against them that ought to be charged, as the cent.
 Judges of the Kings Bench use to do, or as they
 shall think fit to do, 22. *H.* 8. 5. For the bet-
 ter understanding whereof, these things are here
 to be laid down.

1. If the whole bridge be decayed, it must be
 made again, & c. *Cook*, 2 part *Inst.* 701.
2. This Statute extendeth not to private Brid-
 ges, to Mills, or the like, but only to common brid-
 ges in the Kings Highwayes, where every one
 hath, or may have passage, and the Indictment
 must

Cap. 6. must be *quod Pons publicus & Communis sciri in
alta regia via super flumen seu cursum aquae, &c.*
Cook. 2. Par. Inst. 701.

3. This is to be understood of every Shire where be four Justices of Peace, *Quorum unus*, and of every Franchise City or Borrough where there be four Justices of Peace, *Quorum unus*, and where they keep a General Sessions of the peace for such Franchise City or Borrough But for want thereof the Justices of the Peace of the County shall enquire. But if any such place be a County and have not such Justices, no other Justices can do this, but it must be reformed according to the Common law.

4. The first branch extendeth onely to such cases, as where there is some body in certain known to be charged with the reparation.

5. Where it is not known what person or place ought to repair the bridges without the limits of Cities and Townes Corporate, shall be repaired by the inhabitants of the County; and such as are within their limits, and if the bridge be part within the one side, and part within the other side, each party must repair that which is within their own limits. *Item Stat. 22. H. 8. 5.* for clearing of which branch know this.

First, that the persons charged by the word inhabitants, are

Inhabitants.

1. Corporations and bodies Politick and other persons resident in the place, or having lands there, *Quae in propriis manibus & Sumptibus Possident & habent*, though they dwell and be elsewhere.

2. An infant that hath house or land by descent or purchase, and the husband of a *Feme Covert*.

3. A

Of their power in particular.

25

3. A man that onely dwelleth, and hath a personal residence there but no estate is not chargeable, for it must be such an inhabitant as is distrainable, *Cook idem.* Cap. 6.

Sixthly, if it cannot be known by any proof, who ought to repair it, the grand Jury are to finde the decay, and to conclude, *Et ulterius Iuratores Predicti presentant quod prorsus nescitur, quæ persona quæ terra siue tenementa aut corpora Politica tandem pontem, aut aliquam inde parcellam ex jure aut antiqua consuetudine reparare debent aut consueverunt.* And upon this, four Iustices of the Peate are to proceed to Assesse the County, *Cook Idem.*

The Iustices may here order men bound over *Self. 29.* for not paying Rents, to be paid for repair of a Church, or Church duties, to pay the money pairing of a Church, to the Church wardens of the place *About 10.* Ord. 9. Feb. Church. 1647.

They may here fine a Church-warden, or other person, bound to repair any Ile, or Chancel forty shillings, or above, that is, bound over to appear here, for disobeying, his order therein and commit him to prison till it be paid. Ord. 9 Feb. 1647.

They may here call to an account Treasurers for the Souldiers money, by the Ordinance of Decemb. 1647. *About taking of an Account.*

CHAP.

Of their power in their Speciall Sessions.

Seſſ. 1.
The power
and duty of
the Juſtices
of Peace,
in the Spe-
cial Sessions
and what
may be done
there.

This Special Sessions is of ſpecial uſe for the ridding of the Gaole and other purpoſes, & the Juſtices of peace herein may take as much or as little buſineſs upon them as they pleaſe, and are not bound to take upon them all the ſervice of the Commiſſion, as they are at the Quarter Sessions. And they have (except it be in ſome ſpecial caſes before noted) the ſame power in this Court which they have, and may do as much therein as they can do at the Quarter Sessions.

For firſt, all that any Juſtice of Peace may do out of Sessions, they may much more do in this Sessions, as puniſh Aleſellers, on 5. & 6. Ed. 6. 21. *Reges.* 39. *Eliz.* 4. and the like, See 1. *Stat.* 6.

Seſſ. 2.
Aleſellers,
Reges.

2. In this Court they may hear and determine upon all the Articles within the Commiſſion of the peace, and that are offences at the common law, *Lamb. fol.* 624. as Felonies, Treſpaſſes, &c. See before, *Dalt. I. P.* 317.

Seſſ. 3.

3. In this Court the Judges have power of Oyer and Terminer, of all offences which any Act of Parliament doth give them power in general, of enquiring, puniſhing or hearing, & determination, or determination onely, without directions to any Sessions. Of this ſort are the offences againſt the Statu

Of their power in their special &c 27.

Statutes of 25. H. 8. 13. about sheep, 12. H. 6. Chap. 7. Sheep.
 14. about Gold Smithes, 8. H. 5. 3. about Gild- Goldsmith.
 ding, 17. Ed. 4. 4. about tyle, 13. Rich. 2. 8. 2. Gilding.
 about victuallers, 21. H. 6. 19. about Sculdiers, Tyle.
 23. Eliz. 10. about killing of Pheasants, &c. 8. Victualers.
 Eliz. 3. about transportation of sheep, 1. H. 8. 7. Sculdiers.
 about Coroners, 8. H. 6. 5. 11. H. 7. 4. about Pheasants.
 weights and measures, 28. H. 8. 14. about wines, Transporta-
 42. Ed. 3. 9. 23. H. 6. 10. 11. H. 7. 25. 27. Eliz. tion of
 7. about Sheriffs, 1 & 2 Ph. & Ma. 5. about tran- sheepe, Co-
 portation of Corn, and many others. roners.
 Weights and
 measures.
 Wines.
 Sheriffs.
 Corne.

4. In this Court they have power also in all
 cases where the Statute doth use the word Sessi-
 ons indifferently, without adding the word Ge-
 neral or Special, as upon the Statute of 2 & 3 Ed.
 6. 15. about conspiracy of victualers, 5 & 6. Ed.
 6. 4. about fighting in a Churchyard, 5. Eliz. 5: Fighting in
 about eating of flesh fish dayes, &c. 4. Jac. 22. a Church-
 about Tanners, 4. Jac. 4: about Brewers, 7. Ed. yard.
 6. 5. about Wives, 2 & 3 Ph. & Ma. 7. 31. Eliz. Fish dayes.
 12. about rolling for a Horse in a Faire, &c. 1 Tanners.
 Eliz. 17. about taking a fry of Fish, 19. H. 7. Brewers.
 11. about hunting, 2. & 3. Ed. 6. 10. about de- Wines.
 ceiptfull malt, most of the branches of. 5. Eliz. Tolling for a
 7. about Servants and Apprentices, 4. & 5. Ph. & Horse.
 M. about Souldiers, 2. Ed. 6. 6. 12. Ed. 4. 4. 2. Fish.
 about Escheators, 5. Eliz. 21. about Fishing and Hunting.
 Hunting, 1. Jac. 27. 23. Eliz. 20. about killing Malt.
 wild Fowle, Hares, Pheasants, &c. 33. H. 8. 9. Servants.
 about unlawfull Games, 33. H. 8. 13. about shor- Apprentices,
 ing in Gunnes, 1. Ed. 4. 2. about certificate of Souldiers.
 Indictments by the Sheriffe, about usury, 37 H. Escheators.
 8. 9. 13. Eliz. 8. *Cum multis aliis.* Fishing.
 Pheasants, Unlawfull Games, Gunns, Certificate by the Hunting.
 usury. Wild fowle.
 Hares,
 Sheriffs.

Cap. 7.

Sess. 5.

Servants.

Alehouses.

Cottages.

Sheriffs.

Malt.

Discharge
of the good
behaviour.

5. So also it seemes to be in such cases where the Statute appoints the thing to be done in Open Sessions, as in 1. Eliz. 4. about Servants, that assault their Masters, &c. 5. & 6. Ed. 6. 25. about Alehouses. 31. Eliz. 7. about Cottages, 27. Eliz. 7. about Sheriffs. 39. Eliz. 16. about Malt. 3. Jac. 1. about discharge of the good behaviour. Where it is open Quarter Sessions, if open did in erid the Quarter, then Quarter were idle and to no purpose, And see, 21. Jac. 22. the last clause, *Sess Quere.* And see generall Quarter Sessions in 43. Eliz. 2. and many others.

Sess. 6.

6. In cases where a statute gives power of Oyer and Terminer of any offence in generall; this must be done at one of these Sessions as is before, and cannot be done out of Sessions. But where a Statute doth give a speciall power, or power to doe a speciall thing, as to make a Rare or the like, and saith not where, there it may be done as well out of any Sessions as within or at the Sessions, See 22. H. 8. 5. Coe. 2. part insti. 703. 704.

Sess. 7.

7. In cases where the Statute designeth the power to the Iustices, or appoinreth the thing to be done in these words; at the Quarter Sessions, or Generall Quarter Sessions, or Generall Sessions, or ordinary Sessions, there the thing cannot be done at this Sessions, but must be done at the Quarter Sessions, see before fol. 15. And so also it seemeth if it be Principall Sessions, as 4. H. 7. 12. And the Iustices of peace in this Sessions also have power in these particulars following.

Sess. 8.

A bout mak-
ing of Horse
bread.

8. The Hostler or Inholder that maketh not horse bread sufficient and of due asise according to the price of corne may be punished as well here

Of their Power in their special &c. 29

as in the Quarter Sessions; for the first offence **Cap. 7.**
by fine, second, imprisonment a moneth without
Baile, third, Pillory without redemption. Fewerth
to be forejudged the keeping of an Inne. 21. *J. 21*

9. He that disturbeth a Preacher is to be **About bind-**
bound to the good behaviour By the 1. *M. 3.* for **ing to the**
one yeare. And this may be as well at this, as at **good beha-**
the Quarter Sessions. And he that doth destroy **viour.**
a Fish-pond, steale Fish &c. is to be bound for **Sess. 9.**
seven yeares. And this (it seemes) is most pro- **Disturbe a**
perly to be done by, 5. *Eliz. 21. Dalt. 7. 235.* **Preacher.**
in a Sessions of the Peace. And that may be done **Destroy**
as well here, as in the Quarter Sessions.

Any question about Rogues may be determi- **Sess. 10.**
ned at this Sessions upon 39. *Eliz. Dalt. 1. P.* **About**
120. except it be a dangerous Rogue, for he is **Rogues.**
to be punished at the Quarter Sessions. 39. *Eliz.*
4.

12. In this Court also the Judges may receive **Sess. 11.**
the Indictments and Presentments of felony taken **About re-**
before the Sherriffs in their Turnes. And upon **ceipt of In-**
these they may proceed as upon Indictments **dictments**
originally brought before themselves, 1 *Ed. 4. 2.* **from the**
as they may in the Quarter Sessions. **Sheriffs.**
Felony.

13. The Iustices of Peace of the County may ac- **Sess. 12.**
cording to their discretion set downe the Rates **About the**
and prices of every Ale brewer, and beere brewer **prices of**
of the County shall have and take for every Bar- **Ale and**
rell, Kilderkin, and Firkin of Ale and Beere. **Beere.**
And he that takes more, forfeits six shillings a
Barrell, three shillings foure pence a kilder-
kin, two shillings a Firkin, And this Assessment
though perhaps *rigore juris* it may be done out
of Sessions, yet it seemes more proper to be done
at a Sessions, 23. *H. 8. 4.*

Cap. 7. 14. It seemes Ale-houses put down by two Iustices cannot be allowed againe by two others, nor otherwise but in this or the Quarter Sessions. And there they may be licensed *de nouo*. And then they cannot be suppressed but at their Sessions againe, where they were Licensed, or the Quarter Sessions, 5. & 6. Ed. 6. 25. *Dalt. 1. p. f. 35.*

Sess. 14. 15. This Surety may betaken here as it may be by Iustices out of any Sessions. but the proper place of discharging such as are bound to the Peace or good Behaviour is in the Sessions of the Peace. And the Iustices cannot well do it out of the Sessions. And this is also the proper place to get a discharge of other Recognizances, which things may be done as well here as in the Quarter Sessions.

Sess. 15. 16. In this Court the Iudges may take the presentment of Searchers of Tyle, of defaults they find in making of tyle upon 17. Ed. 4. 4. as well as in the Quarter Sessions.

Sess. 16. 17. The discharge of an Apprenrice from his Apprenticeship may be at this Sessions by four Iustices of Peace *Quorum unus* under hand and Seale by 5. *Eliz. 4.* And yet by the words of the Statutes though one Justice of Peace may allow the cause of putting away or departing of a Servant, yet the prooffe of the Sufficiency, or insufficiency, of the cause for which the Master may put away his Servant before, the end of his Tearme, or at the end of his Tearme without warning, must be at the Sessions, and therefore it seemeth reasonable, this offence should not be tryed elsewhere. And yet the punishment of him that doth assault his Master, &c. if it require

Putting away a Servant.

About a servant abusing his Master.

The power in special Sessions.

31

Cap. 7.

require more then a yeares imprisonment may be here as well as in the Quarter Sessions. And almost all the offences against that Statute are punishable as well here as in the Quarter Sessions.

5. Eliz. 4.

18. In this Court as in the Quarter Sessions they may by their discretion upon complaint and by Bill, take and charge a second Jury, whereof every one must have 40 s. in Lands yearly to enquire of the concealments of other Inquests taken before them, within or without Franchises, and before others of such offences, as are enquirable and presentable before Iustices of the Peace. And being found to be done within a yeare before they are to amerce them according to their discretion. 3. H. 7. 1.

19. It seems they may here, as well, as at the Quarter Sessions give remedy to the party grieved against a witnesse that being served to appear in any Court of Record, and doth make default by 5. Eliz. 9. *Sed Quare.* If in any Court of Record doe not intend the four Courts at Westminster only, as usually by these words it is intended *Cook, Rep.*

20. In this Court the Iudges may punish the eating of flesh upon Fishdaies without license, the not disclosing of it to an officer the not having of a dish of Sea fish with the dish of flesh by him that is licensed, and the offences of buying of Herring of an Alien, transportation of things in an Aliens boat, and the importation of Wines from France in Aliens Ships against 5. Eliz. 5. as well as in the Quarter Sessions.

21. If a Recognizance be forfeit by default

Sess. 17.
About the concealment of an Inquest.

Sess. 18.
About a witnesse.

Sess. 19.
About fish

Sess. 20.
About a Certificate Recogni.

zance forfeit of

32.
Cap.7

The power in special Sessions.

of appearance, or otherwise the Iustices of Peace may and must from this Court or the Quarter Sessions where it is, certify the same with the cause of forfeiture into some of the Courts at Westminster, that from thence Proccesse may go out against the party, *Dalt. Just. P. 213.* And this Court may do this also. A Recognizance must be certified though it be released.

Sect. 20.
About Officers.

22 The Iustices of Peace may here in this Court, and in the Quarter Sessions, both require of all the Ministeriall Officers that belong to the Court, as Sheriffe, Clerk of the Peace, Coroners, Constables, and Bailiffes of Hundreds, that attendance and Service they owe, and punish their neglect 27. *H. 5. 8. Young 12. 14. R. 2. 5.*

Sect. 21.
About Restitution of stolen goods.

And if Sheriffes or their under Officers return Jurors without their Additions, the punishment of them may be hereupon. 27. *Eliz. 9.*

23. Restitution of stolen goods to him by whose industry the Felon is attainted, may be made by the Iustices at this Sessions as well as at the Quarter Sessions; for a Felon may be attainted before them at this Sessions, as well as at the other, 21. *H. 8. 11. Cook Second part of his Instit. fol. 714.* And though the goods have been sold in market overt, yet Restitution shall be made; and this Restitution it seems, the Iustices must make without enquiry of the fresh suit.

Sect. 22.
About cloath

24 This Court as well as the Quarter Sessions may (as it seems) heare and determine the offences of Clothiers in not setting their Seal to their cloath, selling or putting to Sale the cloath that shrinks so much in wetting, by false dying of wool or cloath, by selling by false measures, using iron Cards and Pickards, pressing cloath

The power in special Sessions.

33.

Cap. 7.

to be used here in this Realm, or Ireland, nor marking the cloath with the Letter E. crowned, by 3. & 4. Ed. 2. So the offences of overseers of Cloth in not taking upon them, or in not executing their Office. *the same.*

So the deceits used in the stretching and otherwise abusing of Linnen cloath, may be punished in this Court, or the Quarter Sessions upon 1. El. 12.

25. The taking of more then tenne in the one Hundred, or assisting in such a Contract, upon 37. H. 8. & 13. Eliz. 8. is punishable in this as well as in the Quarter Sessions. But the taking above eight and under tenne in the hundred, or the procuring of such a contract upon 21. Jac. 1. it seems is not punishable in either of these Courts but elsewhere.

26. If any person (except Spirituall persons) shall at one time, have of his own, or to his own use, or keep upon his owne or others Farmes, except it be upon his owne Inheritance, or that which one hath in Jointure by the courtesie or in Dower above 2000 Sheep (120 accounted to the hundred) besides Lambes (to be reckoned of a yeare old, and above from the time of the fall, to midsummer following) except sheep for the maintenance of his house, sheep by Executorship, Marriage, or given by will to a Child within age, he forfeits iii s. 4 d a sheep. And if any take to Farme, or take an estate for life, yeares, or at will, by Indenture, or Copy, any more then two houses, holds, and Tenements of Husbandry, whereunto any Lands are belonging in any place whatsoever, nor may any man occupy such, except he live in the Parish where they are, Sub Pana 3 s. 4 d. a week, so long as he shal occupy

Sect. 23.
About usury.

Sect. 24.
About keeping of sheep or Farmes.

Cap. 7. in, these offences may be heard and determined in this Court as well as in the Quarter Sessions. 25. H. 8. 13.

Sess. 26.
About Cottages and Inmates.

27. In this Court as well as in the Quarter Sessions, the erecting and continuance of Cottages; receipt, and keeping of Inmates may be punished. 31. Eliz. 7. For the better understanding of which Law these things are to bee known. 1. If one convert that building that before this Statute was one house into two houses, these are two Cottages, and punishable by this Statute, for this is a continuing of Cottages. 2. If one build an old house upon a new foundation in the same quantity that the old was, this is not punishable. 3. If one build two distinct Cottages together, the one upon the old foundation, the other upon the new; that which is built upon the old foundation is not punishable, but that which is built upon the new is. 4. If one build a new house upon an old and new foundation together, so that the entire house doth stand upon both together, this is a Cottage punishable by this Statute, *Trin. B. Car. B. R.* 5. The building of a faire house in the Countrey by a rich man, nor having 4 acres of Land to it, is a Cottage per *Justice Jones Trin. 13 Car. in B. R.* But the placing of the poore is not in this Statute, *Resolved of the Judges Temp. Car. Regis, See 43 Eliz. 2.*

Sess. 27.
About Vi-
tuallers and
Rates of sel-
ling com-
modities

28. If any Butcher, Fishmonger, Hostler, Baker, Brewer, or the like Tradesman sell their provisions at unreasonable prices, having respect to the prices, in the places adjoining and the place from whence the commodity is fetched; he may be fined in this Court, or in the Quarter Sessions for it to the double value, 13 R. 2. 8. 23 Ed. 3. 4.

The power in special Sessions.

35

Cap7.

And it seems the Iustices may set down Rates for the Sale of commodities for provision, yet see 25 H. 8. 2.

29. The prices of wine may be assessed by the Keepers of the Liberties Great Officer, and he that sells for more, may be punished by the 40 s. penalty here 28. H. 8. 14. So the Iustices may here set down the Rates of VeTells of Ale and Beere, See before; and 23. H. 8. 4.

Ses. 28.
Wine.
Assessment
of prices.

30 If the occupiers of Land in the Countrey do not their indeavour to destroy chonghs, crows, and Rooks, or refuse to pay them that take them they may be punished here, upon 24. H. 8. 10.

Ses. 29.
About de-
stroying of
Crows, &c.

31. The transportation of any corn or Malt, Butter cheefe herring or wood in shipping beyond Sea without license, or the carrying of such things to such shipping to be transported, or the exceeding of a Licente herein, are punishable in this Court upon 1. & 2. Ph & Ma. 3.

Ses. 30.
About
transporta-
tion.
License.

32 The delivery or receiving of live Sheep into any Ship to be transported out of the Realm is offence losse of goods and imprisonment a yeare without Bail and losse of his left hand, 2 offence, Felony, this may be here executed at this Sessions by 8 Eliz 3.

Ses. 31.
About
fighting in
the Church.
&c.

In this Court as well as in the Quarter Sessions the malitious striking of any person with any weapon, in any Church or Church yard, or the drawing of any weapon in that place, with intent so to do, may be punished with the cutting off of one ear, and if he have no eare, with burning; upon 5 & 6. Ed. 6. 4.

33. In some speciall cases, they have power here to hear Suits between party and party, as on the Statute of 3. H. 8. for levying of money for

Ses. 32.
About Suits
inter partes

Cap. 7.

Knights of the Parliament, and the Statute of Labourers, 5 Eliz. 4. and for taking Fish, Deer and Hawks, 5 Eliz. 21. which may be at any Sessions of the Peace.

It seems in all cases where direction and power is given by any Statute to sue for a penalty in any Court of Record within this Realm, or in any of the Keepers of the Liberties Courts, as in 17. 18. 19. 24. 20. and divers others, it may be used here; *Contra*, if it be in any of their Courts of Record at *Westminster*, as 1 *Jac.* 21. 10. 11. H. 8. 5. and many others.

Sect. 32.
About making of orders.

Fine for contempt in *facie Curie*, Commitment.

Indictment. Good behaviour.

Sect. 33.
About the conspiracy of victuallers or workmen.

34 At this Sessions as well as at the Quarter Sessions the court may make such orders as they have been used to make according to Law, & they may annex a penalty, but how they may recover it *quare*: for it seems there is no law for it, yet doubtless for any affront or contempt *in facie Curie* or offence in an officer of the Court, they may fine or imprison, for this power every Court of Record hath. And upon other orders made consonant to Law and reason, perhaps they may punish disobedience, especially if it be joyned with contempt, by indictment, binding to the good behaviour, or attachment, *Quere* of these things, C. 8. 61. 49.

35 If any Butcher, Brewer, Baker, Poulterer, Cook, Costermonger or Fruiterer, conspire not to sell their victualls, but at certain prices. Or Labourers or Artificers, conspire not to work but at such rates, or not to finish what another hath begun, or to do but a certain work a day, or to work but a certaine houres, 1 offence 10 l. or if not paid within 6 dayes 20 dayes imprisonment with bread and water only. 2 offence 20 l. or not paid within 6 dayes

The Charge for Quarter Sessions. 37

6 dayes Pillory. 3. offence fourty pounds, and Cap. 8.
not paid in six dayes Pillory and losse of one of
his eares, and this may be executed in this court
as well as in the Quarter Sessions, 2. & 3. Ed. 6. 13.

36. The Offence in selling Wine against the
Statute of 7 Ed. 6. 3. about Wines may be pu- Self. 34.
nished here as well as at the Quarter Sessions. About
Wines.

37 Any default in the owners or Governours of
fares, keepers of the Toll book contrary to 2 & Self. 35.
3 Ph. & Ma. or 31 Eliz. 12. is determinable here as About hor-
ses fold in
it is in the Quarter Sessions. So any default against Faires, &c
the Statutes made for the ordering of Malt-ma- Malt.
king, 2 Ed. 6. 10.

All those things which by any Act of Parlia-
ment are appointed to be done at any Sessions Self. 36.
and not elsewhere can be done at no other place What may
be done out
of one of
the Sessions.
or time, and of this nature are all these things
before and after particularly named. Such as keep
Greyhounds, &c. and against 13 R. 2. 13. Such as
publish false Prophecies against 3 Eliz. 15. Such as
transport corn, against 1 & 2 Ph. & Ma. 3. Such
as offend against most of the branches of 3 El. 5.
about the constitution of the Navy. And such as
sell by unlawfull weights and measures against
11 H. 7. 4. All these must be punished in one
of these Sessions.

C H A P. VIII.

The Charge for the Quarter Sessions.

THE Articles wherewith you are to be Self. 1.
charged are many, for at this Sessions
all things ought to be given in charge,
that do lie within the authority of the Justices
to be determined. Time will not serve to tell

tell you all, therefore that we may make the best use and yet keep our selves within the bounds of that time we have allotted to us, we shall observe this method. 1. We shall wholly passe by those particulars, which are in respect of the present time, place, or condition altogether unusefull. 2. We shall onely touch upon, and lightly run over such things as are lesse serviceable, and usefull. 3. and stay onely upon the things that are most pertinent, and behoofeull. In the which also we shall endeavour to be as brief, as it is possible to be in so large a Tract. And therefore we shall onely name the Law, and offence against Law, without amplification or exposition, and recite onely that part of a Statute which makes the offence and no other part thereof. 2. Wee shall wind up together, and reduce to one head as many things as we may. 3. We shall purposely pretermitt the rehearfall of the punishments of each offence, for that they do rather appertaine to the Justices then to the Jurors. And when we have done all, we shall be forced to charge your memory with more then it can well carry away.

The Charge to be given doth consist of two parts, Lawes Ecclesiasticall for the Peace of the Church, and Lawes civill or temporall for the Peace of the common weale; and in answer to this the offences, which are the breaches of these Lawes, are capable of the like Division. But they do admit divers other Divisions. For these offences are reducible to divers heads, some of them are given in charge here, rather for instruction or preparation, then for execution. Some of them do concern Spirituall or Ecclesiasticall matters, others do concern civill matters. Some of them

The Charge for Quarter Sessions.

93

Cap. 8.

them concern crimes that are more penally and of a higher nature, others of a lower nature, and lesse penall. Some of them are against the Common, some against the Statute Laws; some of them are publick and generall, and concern the common wealth, some private persons. And amongst these also which concerne the commonwealth, some concern the Peace, some the Iustice, some the strength, some the flourishing estate, and some the ease of the common wealth. Again, some of them concern matter of force and violence, others matter of fraud and deceit; also among them which concern private and particular persons, some concern the body, some the body and goods together, some the goods only, some the name. Those which concern the body, are either in taking away the life thereof, or abusing it without death.

We shall first of all give you the things that doe concerne Ecclesiasticall or Spirituall matters. And of these, first such as wherein this court doth take upon it no further consistance, but onely to enquire and discover, and so (if it have so much power to prepare for other Courts who have power to proceed further therein. And these we shall name in the first place.

Sect. 3.

If any have brought from the Bishop of Rome, or any other authorised by him, any tokens or things called *Agnus Dei*, crosses, pictures, beads, or such like superstitious things, and hath offered or delivered the same to any to use or weare, and if any to such intent have taken and received the same and not apprehended, nor within three dayes disclosed him to the Ordinary or some Iustice of Peace, or within one day delivered the thing to some Iustice of Peace, this is a *Præmunire*.

Sect. 4.

Agnus Dei
Crosses.

Præmunire.

13. Eli. 2.

If

Cap. 8.

Sending
children
too l.

1 Jac. 4. 5.

Popish
books 40 s.
Books to be
burned.
3. Jac. 5.

If any have sent their children or any under their Government to any Popish Seminary beyond Sea to be instructed in the popish Religion, or to professe the same.

If any person have brought from beyond Sea, printed, sold, or bought any Popish books in any language whatsoever, or any superstitious books in English, they are to be burned.

All these we are to enquire of onely, and now we shall name to you such offences in Ecclesiastical matters wherein this Court hath a competent Conscience, (that is) power not onely of enquiry, but also of *Oyer* and *Terminer*. And the first of these is Heresie and Blasphemy.

Sect. 5.
Heresie.
Ordinance
2 May
1648.

If any do wilfully and obstinately maintaine and publish by preaching, printing, writing, or teaching, that there is no God, or that he is not eternall, or the like horrible blasphemy or heresie, this is felony. If the error be lesse, as if the opinion be that all men shall be saved, or that man hath by nature free will to turn to God, or the like, for this the punishment is lesse, he is to renounce his error according to the order of two Justices of the Peace, or else stand committed to prison till he give bond to them, with two Subsidie men sureties, never to offend in that kind again.

Superstitious
monuments.

Sect. 6.

3 Jac. 4.

23. El. 2. and

yes some

take these 2

offences to

be only in-

quirable not

determinable

If any superstitious monuments or pictures be continued in any Church, Chappell, or open place.

If any person, who is a Recusant convict, or his wife a Recusant convict, have Altars, Pixes, Beads, Pictures, Crucifixes, or other Reliques of Popery, they are (if of small value) to be burnt, or else to be defaced.

If any person have said or sung Masse, he is for this to lose two hundred marks, and be imprisoned one

The Charge for Quarter Sessions.

41

one yeare. If any have willingly heard Masse, he is for this to lose an hundred pound, and be imprisoned one yeare.

If there be any Popish Recusant who doth not repair once every moneth, to some usual and publick place of divine worship.

Or if there be any such who do not once every yeare receive the Sacrament of the Lords Supper according to the Statute 3 Jac. Their names and the names of all their children and Servants must be presented.

Those that present them are to have a reward of fourty shillings out of their goods and Lands.

If any do willingly maintain, retain, relieve or keep any such Recusant in his house.

If any retain such an one for his servant.

If any married woman shall not come to Church, or receive the Sacrament as aforesaid.

If any popish Recusant marry, baptise their childre otherwise then after the custom of the church.

If any above 16 yeres old obstinately refuse to joyn with us in our divine worships in publick according to Law for a moneth together.

and open submission or else in 3 moneths to absure the

Chap. 8.

Where see

29 Eliz 2,

Recusants

1 Eliz.

20 l. a mo-

neth, and 2

parts of their

Land.

20 l. the

first yeare,

40 l. the se-

cond yeare

60 l. every

year after.

23 Eliz. 1.

3 Jac. 4.

29. Eliz. 6.

10 l. a mo-

neth 3 lac.

4. 10 l.

10 l. by the

Husband or

the 3d part

of his Lands

3 Jac. 5.

Imprison-

ment untill

conformity

Realme.

35 Eliz.

If he refuse

or returne

without li-

cence, felony.

35 Eliz. 1.

Or if any by writing or speech purposely go about to perswade any against the Supream power in Ecclesiasticall causes, and to that end to forbeare to come to our publick worships, or to come to any unlawfull meetings, under colour of religion, contrary to the established Lawes.

Or if any obstinately refusing to joyn with us in our publick worship for a moneth together shall of his own head, or by such perswasion, be willingly present at such unlawfull meetings.

If

The Charge for Quarter Sessions.

Cap. 8.

Schoolma-
ster 43 2

day, the

Schoolma-
ster to be

imprisoned

10 l. a month

4 Jac. 4.

23 Eliz. 1.

Service of
God.

12 d. a time

1 Eliz. 2.

3 Jac. ch. 4.

Dalton 1. p.

118.

To be levied

by Distresse

And for

want, to prison till payment. 10 l. a moneth. 3 Jac. 4.

Good beha-

viour and 3

moneths

imprison-
ment.

1 Mar. 3 Sef.

2 Impr.

3 moneths.

Imprisonment. Fine. 1 Ed. 6. 1.

If any Recusant keep or maintain any Schoolma-
ster not licensed by some Bishop of the Diocesse.

Or if any keep any Schoolmaster which resorts
not to Church as aforesaid.

If any do not resort to their parish Church or
Chappel accustomed, or to some usuall place
where the Service of God in the Kingdome is
used every Lords day, and there continue order-
ly and soberly during all the time of Divine Ser-
vice, at Morning and Evening. But if any man
be punished upon this, it must be within one mo-
neth after the offence.

If any keep servants, sojourner, or stranger in his
house that goes not to Church in a month together
not having a good excuse for it, and know
of it.

If any do by word or deed maliciously and pur-
posely disturb a minister in the Sermon time, or if
any shall rescue such an offender.

If any within three moneths last past have de-
praved or despised the blessed Sacrament of the
body and blood of Christ.

Directory
forf. 5 s.

If the Constables or other Officers of every pa-
rish have not with'in a week after the sending of
the Book called the Directory for worship, deli-
vered the same to the Minister. 2. If the Mini-
ster have not read it openly amongst his people
the next Lords day after the receipt of it before
morning prayer. 3. If the Minister in his Mini-
stration have not observed and pursued that order
in all things. 4. If the Minister do still use the

Book

The Charge for Quarter Sessions.

43

Book of Common-prayer in publick or private worship. 5. If any Minister say or do any thing in derogation of this new Form of worship prescribed. All that are punished for these things must be at the next or second Generall Sessions after the thing done. But it is much doubted, whether this Ordinance may be put in execution by Iustices of peace in their Quarter Sessions. Therefore Justices may forbear to give it in charge.

If any do not sanctifie the Lords day in the practice of the duties of piety and charity, but profane it. 2. If there have been Assemblies or meetings of any people for any sports or pastures out their own parishes, or any Bear baitings, Bull-baitings, enterludes, common playes, or other unlawful exercises in their own parishes on that day within one moneth last past. 3. If any Shoemaker have shewed with intent to put to sale any Shoes boots, slippers or the like on this day. 4. If any do cry, shew or put to sale, any wares, fruit goods or Chattels on that day. 5. If any Carriers, Waggoners, Wainmen or Drovers have travelled with Waggon, Cart or Cattel on that day within six moneths last past. 6. Or any butcher have killed or sold any victualls on that day within this time. 7. Or if any do carry any other burthens or do any wordly work on that day. 8. Or if any use or keep or be present at any wrestlings, howlings, shootings or ringings for pleasure, or any wakes, or the like pastime, &c. 9. If any man without good cause travell on this day. 10. If any owner of a Faire or Market keep it on this day.

5 s. If under his Master or Father 12 d. 10 s. or in stocks 3 houes. 1 Car. 10. 27. H. 6. 5.

Chap. 8.

1 Offence
5. l. 2. 20 l.
3. Imprisonment a year without bail
5 l. or above
under 50 l.

Sabbath day,
3 s. 4 d. a-piece.

or sit in
stocks
3 hours for
Want of Distress which
is to be sold,
the overplus
restored.

1 Jac. 1
3 s. 4 d.
and the value of the
things.

1 Jac. 22.
The goods
forfeite by

Ordinance
of Parliam.
20 s. 3 Car. 1
30 s. for every offence
6 s. 8 d.

3 Car. 1.
5 s. Ordin. of
Parliament.
or in stocks
3 houes.

If above 14
yeares old

If

Swearing
12 d. or in
the stocks
9 houres.

21. Iac. 28.

Perjury
20 l. and 6
moneths im-
prisonment.

4 l. or 6 mo-
neths impi-
sonment.

5 Eliz. 9.

3 Iac. 21.

Fine.

Imprison-
ment.

Witchcraft.

Felony

1 Iac. 12.

1 offence

1 years im-
prisonment,

without bail

and to stand

in the Pillory,

6 houres

every quar-

ter of the

yeare. the

second of-

fence, Felony

Opinion

preached

about eating

off Flesh.

5 Eliz. 5.

The Charge for Quarter Sessions.

If any one within twenty dayes last past have profanely sworn or cursd. If he be under 12 year old, he is to be whipp'd by the Parents or Constable.

If any one hath committed wilfull perjury, or procured, or suborned another to commit wilful perjury in any Court of Record, Court Baron, or Hundred Court.

See for profanation of Gods name in playes, &c.

If any Iury charged to enquire of any robbery or felony, spare or conceal it out of favour and partiality, Statute of *Winchester* 13 Ed 1. 1.

If any person have used Invocation or Conjuratiō of evill spirits for any cause, or any witchcraft, enchantment or charm, whereby any person shall be killed, or any part of him wasted, or lamed, this is felony. If any use any Witchcraft or charms to find out hidden Treasures, to tell where lost goods shall be found, or attempt thereby to provoke unlawfull love, or to destroy or hurt any mans body, or whereby any mans Cartell be destroyed or impaired, to do this the second time is felony.

If any do by speech or writing divulge that the eating of flesh upon dayes now usally observed, as Fish dayes, is of necessity for salvation of Souls, or is the Service of God, otherwise then as other polirick Lawes.

These are the offences about spirituall matters, wherein this Court hath a compleat Conusance and Iurisdiction.

The offences that follow in the next place, are concerning civill matters. And of these, first of such as are more Penall, Mortall, and of a higher nature, then of others, that are of a lower na-
ture.

The Charge for Quarter Sessions.

45

Chap. 8.

ture, and veniall: of the first sort are all Felonies. For as touching high Treason, and some Felonies (usually given in charge in this Court) it must be to this end, either for instruction only, or for information, and to make preparation for some other Judges, and Courts, or else as it is a felony (for every Treason at common Law is felony, and more.) And so onely inquirable here. Now high Treason being the greatest offence, it is not amisse to shew you how many wayes it may be committed, and to name those felonies which are onely inquirable here.

The offence of high Treason may be committed either against Statute, or common Law, we shall give you first the offences by Statute Law, only to be enquired of here. And first of Treason.

This offence by the common Law might have been committed many wayes. 1. by Thought, *Sec. 7. High Treason.* As if a man did but wish, imagine, or plot in his mind the death of the King, Queen or Prince.

2. Or by word, as if a man did vow the Kings death, or counsel, provoke or incourage, another to kill him, or pray for the Kings death; or if any had by preaching, or printing extolled any forraigne power, or did teach that men were free from obedience to the King, and advised and perswaded them to submit to the Pope, or if one had advised or provoked another to commit any other Treason. as to make an invasion, or the like, this was High Treason. 3. Or it might have been by deed, as if one had killed the King, Queen, or Prince, the Kings Chancellour, Treasurer or Justice assigned to heare and determine causes, being in his place doing his Office, or if one did but practise, conspire or endeavour the Kings death, by poyson.

The Charge for Quarter Sessions.

poysoning his Saddle, divulging of Trayterous books, or the like, or practise any other Treason by sending of Letter to invire forreigne forces to make an invasion in the Kingdom or had practised to depose the King or the like, all these things were treason. So if one did defloure the Queen, the Princes wife or the Kings eldest daughter, unmarried, or if one did adhere to any of the Kings enemies, or if one did counterfeit clip, wash, or other wise lighten the currant coyne of the Kingdome, or if any did counterfeit any of the Kings former Seales.

By these, and many other wayes besides those we have before named, a man might have committed this hainous crime; by which a man loseth life, and all that he hath.

But now by the Act of Parliament of *May 14. 1649* it is made Treason to do any of these following things. 1. To Print, write, or openly to declare that the present Government is Tyrannicall, usurped or unlawfull, or that the Commons assembled in Parliament are not the Supreme power of the Nation. 2. To plot, contrive or endeavour to stirre up or raise force against the present Government, or for the subversion and alteration of the same, and to declare the same by any open deed. 3. Maliciously and advisedly to plot the subversion of the Keepers of the Liberties of *England*, or Councell of State, and declare the same by open deed. 4. to stir or move any so to do, or to rise up against either of them. 5. If any but Souldiers shall endeavour to stirre up any mutiny in the Army, under the Command of *Thomas Lord Fairfax*, or to withdraw the Souldiers thereof from their obedience

to their Superiour Officers, or from the present Government. 6. To procure, invire, aid, or assist any forreiners to invade England or Ireland.

7. To adhere to any Forces raised by the enemies of the Parliament, Common-wealth, or Keepers of the Liberties of England. 8. To counterfeit the Great Seale of England, for the time being.

But for any of these no man may be questioned above a yeare after the Offence done.

These offences are not punishable in this Court.

If any person within one yeare last past, have by word or deed maintained and defended any forreigne power, Spirituall or Ecclesiasticall of any forreign Prince usurped within this Kingdom, Or if any have counselled, abetted or given aide to any such person in so doing. This in the third offence is high Treason.

Extolling
forreigne
power.
1 forreign
goods.
2 Premunire
High Treason.
1 Eliz. 1.
Premunire.
High Treason.

If any within the time aforesaid hath by word or deed extolled, defended or maintained the authority and Iurisdiction of the Bishop of Rome usurped in this Realm, or attributed any such authority to that Sea, or if any have abetted, procured, counselled or aided any such person, This is high Treason being done the second time, the first being but a premunire.

3 Eliz. 2.

If any Person requirable to take the oath of Supremacy had refused to take it, being lawfully tendered to him, this was a premunire, for the first offence, and refusing the second time, was treason.

Refusall of
Oath of
supremacy,
1 Premunire
2 High
Treason,
1 Eliz. 1, 5,
Eliz. 4,
Offering of
Bulls.

If any have used or put in ure any Bull or such like instrument gotten from the Bishop of Rome, or any claiming authority under him, or have published any such, or have taken upon him to absolve or reconcile any thereby, or if any have received

D d

such

Cap. 8.
High Treason

premunire
Misprison of
Treason
13 Eliz. 2.

praeter
withdraw
from obed-
ience to the
King

High treason
Misprison
of high treason.

23 Eliz. 1.
1 Jac. ch. 4.
Jesuits, se-
minaries.
Treason.
27 Eliz. 2.

premunire.

Fine
Imprison-
ment

such absolution, or if any have procured, abetted, or counselled any such offender.

Or if any have aided, maintained, or comforted such after the said offence, this is a Premunire.

Or if any to whom such Bull hath been offered, hath not disclosed the same within six weeks to some of the Kings Counsell, or the President of the North. This is misprison of Treason.

If any person hath practised to absolve or withdraw any from obedience to their King, and to that intent from the Religion now established to the Pomeish Religion, or to promise obedience to that Sea: or if any have been so absolved or withdrawn, or promised such obedience. This is high Treason.

Or if any have aided or maintained such, or knowing the same not disclosed it within twenty dayes to some Justice of Peace, or higher Officer, this is misprison of Treason.

If any Jesuit, Seminary Priest, or any other Deacon or Priest ordained or professed by any authority or Jurisdiction from the Sea of Rome, become or do remain in this Realm, this is high Treason.

Or if any give, send or contribute any money or relief to any such for the maintenance of any Colledge or Seminary of such beyond the Seas.

Or if any knowing any such to abide, doe not discover it within twelve dayes after his knowledge, to some Justice of Peace, or higher Officer.

All these offences are punishable in other Courts.

To imbezle or rase any Record is Felony, & H. 6. ch. 12. So to Forge, or cause or agree to be forged any Deed or Court roll, or to publish any such

The Charge for Quarter Sessions.

49

Cap. 8.

such, knowing the same to be false, the second time is Felony, 5 Eliz. ch. 14.

And these Felonies are punishable by the Judges of other Courts, but not in this Court.

We shall now speak to such offences, as whereof this Court hath compleat Conusance, i. e. power to heare and end. And first of Felonies.

Felonies (we must know) are either simple or relative, by common Law, or by Staute Law; and some are by both. And these again are either (as we have touched already) Publick, And those do either concern the Common wealth either in Treason, as in the cases before, or in Felony only as by carrying away our men or Armes to serve other Princes, or by conjuring rebellious Assemblies, Buggery, Transportation, and the like.

Or else they are private. And those be either such as do touch the body onely, or the body and goods together. Or the goods only. That which doth concern the body only, which is either by taking away the life thereof, which is called Homicide, or by abusing it without death, as by cutting out the tongue, Buggery, Rape and the like. Homicide is either of ones self or another, that of another is either voluntary, or involuntary. That which is voluntary, is either dispunishable by Law, when it is commanded for Iustice sake, or allowed or excused for other cause, which be no Felonies. Or it is punishable. And that whether it be upon malice prepenesed, as murder, or sudden adventure, as by a sudden falling out and in hot blood, without any premeditate malice, Or in a mans ow defence, or by meere chance, as chance medley. Other divisions by others are made of these things.

Cap. 8.

Sec. 8.

We shall begin first with those felonies that do concern the Common wealth; some of which we have spoken to before. And then come to them which concern private persons.

Gaoler com-
pelling a
prisoner
to approve
14 Ed. 3. 9
Petit trea-
son.

Conspiracy
against the
Kings coun-
sell.

3 H. 7. 14

Acknow-
ledgement
of a Fine, &c

21 Jac. 29

Oath of

Allegiance

3 Jac. 4

7 Jac. 6.

An abjured
person re-
turneth

without Li-
cense.

35 Eliz. 1. 2
Jac. 25

Multiplica-
tion of gold
&c

5 H. 4. 4

Congrega-
ting of Ma-
sons

3 H. 6. 1

Souldiers
departing.

If a Gaoler use his prisoner so hardly, that thereby he compell his prisoner to be an approver, to charge another to be a partaker with him in the felony, this is felony.

To offer to smite a Iudge in the doing of his office is petit Treason, and the highest degree of felony.

If any had conspired to destroy any of the Kings counsel, or principall Officers, though he did not effect it, this was felony.

If one acknowledge a fine, recovery, deed inrolled, Statute, recognizance, bail or judgement, in the name of another, he being not privy, nor consenting thereunto, this is felony.

If any had gone out of the Realm to serve a forreign Prince before he had taken the Oath of Allegiance, this was felony. And if any requirable to take it, and upon tender of it, had refused it; this was a premunire.

If one that hath abjured do not depart the realm, or do return contrary to his abjuration; this is felony.

To doe the latter of these without the Kings license was felony by the Common Law:

To practise the art of Multiplication of gold or silver is felony.

If any shall cause masons to congregate together in Chapters, and Assemblies, and there to confederate to subvert the Lawes, this is felony.

If any Souldiers having taken presse money do

A Charge for Quarter Sessions.

51

do not go with their Captain, or being in Service depart without license, or any Marriners, or Gunners take presse money, and depart without License, either of these things are felony.

Cap. 8.

7 h. 7. 2.

3 H. 8. 5

18 H. 6

19. 5 Eliz. 5.

Embezzling
habiliments
for warre.

If any Souldier imbezzle or convey away any Ordnance, Armour, shot, powder or other habiliments for warre, or victualls provided for Souldiers, to the value of 20 s. though at severall times, or have sold or conveyed any horse into forreign parts without License, every of these offences are felony. So if any Souldier doe counterfeit a Testimoniall from his Captain

31 Eliz. 4.

39. Eliz. 17.

To transport or ship away sheep out of the realm, the second time is felony.

Transporta-
tion of
sheep.

8 Eliz. 3.

Plague.

If one infected with the Plague, and having the sore running upon him, and being commanded by an Officer to keep his house, doth afterwards go abroad, and converse with company, this is felony.

1 Lac. 31.

If any person of the age of fourteen years or above shall call himself an Egyptian, or shall be in the company of such an one, or shall disguise himself in apparrell, speech, or otherwise, like such an one, and shall be or continue in England one moneth at one or severall times, this is felony.

Egyptians.

1 & 2 Ph.

M. 4.

Willingly to harbour any Iesuit or popish priest born here and at liberty, is felony.

Iesuits.

If any incorrigible rogue banished the realm, return without License, or being burnt in the shoulder and sent home, do afterwards wander abroad; each of these is felony.

Rogues.

39 Eliz. 4.

1 Lac. 7.

If any Captain, or Lieutenant had served any forreigne Prince before he had given bond, nor to conspire against the King, this was felony,

3 Lac. 4.

Cap 8.

Breach of
prison

1 Ed. 2.

1 H. 7. 6

1 Ed. 3. 17.

23 H. 8. 11.

Purveyors.

25 Ed. 3. 1

34 Ed. 3. 22

28 Ed. 2. 2

If one be in prison, or onely arrested for felony or suspicion of felony, and he break the prison and escape, this is felony.

If the Kings purveyors purvey above 12 d. in value without warrant, Or having warrant do not pursue their warrant, or take away provision against the owners will, or take up more sheep before shearing time, then wil serve till sheare time, or take up more then is imployed for the Kings house, or do not prize the things purveyed by the Constable, and foure honest neighbours of the place, either of these was felony.

Souldiers

& Mariners

39 Eliz. 17

If any idle Souldiers or mariners wander about idly & wil not settle to an honest course of life, or go to their place of birth or last dwelling, this is felony. 39 Eliz. 17. Or if he go without, or counterfeite a Testimoniall of a Iustice of Peace.

34 H. 3. 22

1 H. 77

There are divers other felonies touching hauks, and hunting in Forrests, and other matters of little use now, for which cause I shall omit them.

Sec 9.

Now to felonies that concern private persons; And first of Homicide.

Felo de se.

If a man kill himself he is said to be a *Felo de se*, and this is such an offence, as for which if he be in his right mind when he doth it, he shall forfeit all his goods and Chattells.

Petit Treason

Losse of all.

The Offence of killing another man is greater or lesse according to circumstances. For if a man or maid kill his or her Master or Mistris, a son or daughter kill his or her father or mother, or a woman kill her husband, or a Clerk kill his Ordinary, this is the highest degree of these murders and is called Petit Treason, which offence also may be committed by other Acts.

Murder.

The like.

if the killing be with any malice prepensed, or without

The Charge for Quarter Sessions.

53

Cap. 8.

without any provocation, or by poysoning, or to kill an Officer, in the execution of his office, in which cases there is malice presumed to be; this is a high degree, and is called Murder, or wilfull murder.

But if the killing be upon a sudden falling out *Manſlaugh-* and in heat of blood without any premeditated malice, this is an offence of a lower nature, and *The like.* is called manslaughter.

And if one be assaulted by another, and fly as farre as he can, and at last being followed so hard *Se defenden-* that he cannot avoid it, but must in his own defence, and by inevitable necessity, kill or be *do.* killed, and then he kill the pursuer, this is an offence of a lower nature, and less punishment then *Losse of goods, Pardon for life.* the last. And so it is where one doth kill another by mischance, and against his will, by shooting an arrow or the like, this is said to be *Chance Medley.* *per infortunium*, or chance medley, and of the same nature with the last. *The like.*

If any woman be delivered of a Bastard child, *Bastard;* and born alive, that endeavourerth privately by drowning, secret burning, or other way by her self or other, to conceal the death thereof, that it may not come to light, whether it were born alive or dead, she is to suffer as a murderer, except she can prove by one witness that the child was born dead.

But here ere we go further, we must tell you, *21 Jac. 27.* that there is a killing which is justifiable, or at least excusable. For if a man set upon me to rob me by the high-way, or to rob, burn, or burgle Him that larly to break my house, I may kill him. So if *Killing justifiable or excusable.* I be a Souldier in a lawfull warre, I may kill as many men as I can. If I be a Judge I may give sentence of death according to Law. If an Officer

The Charge for Quarter Sessions.

cer, I may do execution according to that sentence.

If a Traytor or Felon being pursued, fly or resist that he cannot be apprehended, the pursuers may justifie the killing of him.

to keep the
Peace,

So if prisoners riotously resist the Gaoler, and they are likely to break away, and he cannot otherwise suppress them. So when men riotously resist the Iustices and other Officers of Peace, and they cannot be otherwise suppressed, or the Peace otherwise kept. So if a forrester, Parkers, or warreners in pursuit of one that is stealing or spoiling of his game, when being required to yield himself he resist or fly. In all these and some other cases, if one man kill another, he shall not be punished at all for it, neither hath he need to sue a Pardon of course for his life, as he must do in cases of killing *se defendendo* or *per infortunium*. And for the better understanding of all these things touching this kind of Crime, these generall Rules must be observed. 1. The death must be within a year of the cause, the blow or the poison given, otherwise it is no murder, nor punishable with death. 2. If one intend to kill one, and misseeth him, and killeth another, this will be all one in construction of Law, as if he had killed the same person. 3. If one be in doing an unlawfull Act, as beating a man or the like, and in the doing thereof he kill a man accidentally, this is a killing punishable, and may be greatned or lessened by circumstances. 4. If divers persons come together to do an unlawfull Act, and one of them kill a man, and the rest stand by, and look on; they are all principall murderers. 5. All that are present at a Murder, and doe encourage the

The Charge for Quarter Sessions.

55

Cap.8.

the Murder, are principal Murderers. 6. It is not material who gives the first blow. 7. It is no murder, unless the party killed be *in rerum natura*. 8. An intent of killing, unless the Act following is not punishable by death. 9. Infancy, madness, and compulsion will excuse a man from punishment in Case of man-killing.

So we have done with Felonies private touching the body onely, by taking away the life thereof: and now are come to speak of those Felonies which do concern the body by abusing of it otherwise.

If any man wilfully put out the Eyes, or cut out the Tongue of another man; this is Felony.

If one commit Buggery with Man or Beast, this is Felony; for which antiently he was to be burned.

If any take away any Wife with her Husbands Goods, Maid or Widow having Lands or Goods, or being heir apparant to Land against her will, or if any receive any such, this is Felony.

If any do ravish any Maid, Wife, or Widow above ten years old against her will, though she after consent to it. Or if any do carnally know any Maid under ten years of Age, though it be with her consent, this is Felony.

If one marry a second Wife or Husband, the first being living, this is Felony. But if the party have been absent seven years, and the one doth not know the other to be living within that time, or they be legally divorced, or they were married within years of consent, it is otherwise.

Seff. 10
Cutting
out of
tongues, &c.
Loss of all
1 H. 4. 5
Buggery
the like,
25 H. 8. 6
5 Eliz. 17
Taking and
carrying a-
way wo-
men, &c.
Loss of all
3 H. 7. 2,
Rape.
the like.
Westm. 2.
14, 18 El. 5
Bigamy.
the like.

1. Tac. 11

Now

Cap. 8.

Sess. 11

Now follow such Felonies as do concern the body and Goods together, or the Goods onely.

Sacriledge,
loss of all.

The Felonies that is committed by the taking away of anothers Goods, is greater or less also by Circumstances, for if one do feloniously take away the Goods of any Parish our of their Church or Chappell; this is a high degree of Felony, and is called Sacriledge.

Robbery,
loss of all.

If one take away any thing from the person of another, any thing by way of Robbery, upon the high way, of picking a pocket, or cutting of a purse, though it be but a peny, this is an Offence of an high degree, and called Robbery.

Burglary,
loss of all.

So likewise if one break into the house of another, where he or some of his Family are or use to be, with an intent to rob or kill in the night time, and do, or do not take away any thing, this is a great Offence, and is called Burglary. So to rob a house, barne, or stable, in the day time to the value of five shillings, though nobody be in it. Or to rob it by day or night, if any person be in it and put in fear, or to rob him in any part of his dwelling house, any of his household being within it.

Felony,
great and
small.

Or to rob any Booth in any Fair or Market, any person belonging to it, being within it, sleeping or waking; all these Felonies are Burglary. But if in other Cases one man do feloniously take away the Goods of another against his will, be it horse, sheep, plate, or any other live or dead thing, if it be above twelve pence in value, this is Felony; yet in this Case, he shall have his Clergy for his life. But if the thing taken be under twelve pence in value, then it is a less Offence, called petit Larceny, for which the

Petit Larceny,
whipping.

The Charge for Quarter Sessions

57

the Offender is onely to be whipped.

If any Servant trusted with his Masters Goods to the value of fourty shillings, or more, imbezle the same, this is Felony.

If one wittingly burn any house, or barn full of Corn, or any out-house adjoyning to such a barn, or dwelling house, in the night or day, this is Felony. Also the burning of any other house, or stack of Corn feloniously, is thought to be Felony by the Common Law. So also if a man wilfully burn his own house, and thereby burn his neighbours house also. So if one burn a part of his neighbours house wittingly, and it be quenched, this is Felony. If one do maliciously cut or burn any frame of building provided for a house, whereby it is made unserviceable, this is Felony.

Now for the better understanding of these things, and Larceny in general, you must know.

1. It must be of Goods and Chattels, personal and moveable. Therefore the stealing of Chattels real, as Charters of Land, an Infant in Ward is not Larceny. Nor of such things as are part of the Freehold unsevered; as Fruit from a Tree, Lead from a house or Church. Yet if one cut down a Tree one day, and fetch it away to morrow, it may be Larceny. 2. The party from whom they are stolen must have a property and a possession. And therefore to steal Goods hidden, waved, or wrecked, or strayed, is no Felony. So to steal things which are *fera natura*, as Doves abroad, Fishes in a River, is no Felony, except it be young Pigeons in a nest, and so restrained by nature, or fish in a stew or pond, and so restrained by place, or made tame by

Cap. 8.

Servants
trusted with
Goods,
the like.

21 H. 8. 7
Burning of
houses,
the like.

5 H. 4. 3.

Art

Cap. 8.

Art, as tamed Deer. But to take the flesh of any wilde fowle dead, or the wooll from off the sheeps back is Felony. 3. They must be things of profit; therefore to take away Dogges, Apes, Parrets, singing Birds, and the like, is no Felony. 4. It must not come to the party taking away by the delivery of the owner; yet if a man have the use only, as of plate in a Tavern, or one deliver the goods to carry to one place, & he carry them to another, or carry the to the same place, and then takes them away, this is felony. 5. The Writ is *asportavit*, or *abduxit*; yet if one move the goods out of their place, with a felonious intent to steale them, though he carry them not out of the house, it is felony. So if one stealing away a Horse, be taken in the manner, so that he cannot carry him away, this is felony.

Sec. 12.

Thus farre of *Simple Offences*. Now for *Relative Offences*, whereby a man doth participate of anothers offence.

Accessory,
before or
after.

One may be accessory to anothers offence two wayes, either before or after the same is committed. A man may bee accessory before the offence committed, by commanding, conspiring, hiring, abetting, procuring, countenancing or agreeing to it, when he is not present at the deed done. And a man may bee accessory after the offence done, by harbouring, comforting, cherishing, shifting away, or concealing of the offender knowing of the offence. And by this he may make himselfe as farre forth guilty and punishable as the principall offender. *Consentientes, agentes, & instigantes, pari poena plebentur*. Touching this thing, these rules and cases are to be remembred. 1. In Treason and Trespasses

The Charge for Quarter Sessions.

59

Cap.8.

Trespases, all are principals, and there is no accessory. 2. If one command an evill act, as to beat another man, or the like, and Felony proceed thereupon, he is guilty of this Felony; otherwise, where the act is lawfull, and that effect followeth. 3. If one command a Felony, and it be done in another fashion, time, place, or manner than was commanded, yet he is accessory to it. 4. But if one command one Felony, and he doe another, or it be executed on another person; or if one doe onely know of a Felony, and not give consent to it, or be present at it (not being party or privy to it) and doe not disturb it, or pursue the Felon. 5. If one pursue a Felon by hue and cry, and take him, and then take his goods and let him goe, or take money of him not to give evidence against him, or receive stollen goods, knowing them to be stollen, by either of these he maketh himselfe accessory. 6. But to take a mans own goods, and no more, or to endeavour to deliver a Felon, or to take stollen goods into his house, not knowing of it, and no more, will not make a man an accessory. But if a man buy stollen goods he knoweth to be so, and for a small matter, it is dangerous. 7. Felony by Statute hath Accessories before and after the fact done, though the statutes speak not thereof.

A man may make himselfe guilty of anothers offence by a labour to shifte the offender from the Justice of the Law. As if one in prison, or under arrest for an offence, or upon a suspicion of it, and another break the prison, and help to convey him away secretly or openly, by this he makes himself guilty of his offence.

By breaking of the prison.

The like.

So

Cap. 8.

By rescue of
the priso-
ner.

So if one be attainted, arrested, or imprison-
ned, for an offence, or upon a suspicion of it,
and another doth forcibly rescue him out of his
hands that hath him, by this he maketh himself
a principall offender, guilty of the same offence,
and liable to the same punishment whereof the
party rescued, was guilty, and to which he was
liable.

Five pounds
Good beha-
viour.

39 Eliz. 3. 4

By escape,
voluntary
or negli-
gent.

If any hinder by rescue, or otherwise, the
execution of the Statutes against Rogues, or for
the poore.

A man may make himselfe partaker of ano-
thers offence also, by an escape. And this ei-
ther voluntary or negligent. If one have a
prisoner under arrest for an offence, and he doe
willingly suffer him to escape, this in most ca-
ses is as great and dangerous offence as the
first: as if the first offence be Treason, this is so
also; yet if the first offence be man-slaughter,
this is onely finable. But if the primitive offen-
der escape against the will of him that hath the
custody of him, this offence is onely punishable
by Fine and imprisonment. If a man be slain
in the day, and the Felon not taken, the Town-
ship is to be amerced.

3 H. 7. 1.

By Misprison,
tion.

A man may make himselfe in some measure
guilty of anothers offence by concealment of
it. For if one conceale a Treason, this is a mis-
prision of Treason, and is Felony. And if one
conceale a Felony, this is a misprision of Felo-
ny, for which a man is Fineable: for every man
is bound, as much as he may, according to the
duty of his place, to prevent and hinder these
evils. And therefore if one stand by & look on
whiles a man is slain, and do not his best to pre-
vent

The Charge for Quarter Sessions. 61

venit, or after he is wounded to attach the murderer, he may be indicted and fined for it. Cap. 8. 11 H. 4. 131
 And so if he attach him, & after let him escape. Stamf. 35.

Now we shall descend to the offences which Sed. 13.
 are veniall and of a lower nature : And first of
 such offences which are directly against the
 peace of the Kingdome.

These are some of them accompanied with a Trespasses.
 kinde of violence, or at least a shew of violence.
 And some of them are without violence, and
 accompanied with a kinde of fraud, deceit, or
 negligence. The first sort are either Extraordi-
 nary, as Maimes, Riorous, and forcible unlaw-
 full Entries, or the like. Or Ordinary, as Assault,
 Battery, and the like. And all these are within
 the Commission under the Word *Transgressio-*
nibus.

If one maim another, that is, by violence of-
 fered to his person, deprive him of the use of a-
 ny one of his principall parts, as his Eye, Foot,
 Hand, fore-teeth, Head, or the like, or break
 his skull, or any bone of his body, whereby he is
 lesse able to defend himselfe, or offend his ene-
 my. For this hee and his Accessories shall be
 grievously fined. But if it be such a hurt as is
 onely a deformity in the body, as the cutting off
 the Eare or Nose, or bearing out of the grind-
 ing Teeth, or the like : This though it be a
 wound, yet is no maim.

Maimes
Grievous
Fine. Impr.
till paid.

If any have lien in wait to maim or kill ano-
 ther, so that he dare not goe about his businesse:
 This in the Commission is thus exprested, *De*
his qui ad gentem nostram maimemant. vel inter-
ficiend. in insidiis jacuer.

Lying in
wait.
Fine.

If any challenge another to fight him, it is Challenge.
 in-

62 *The Charge for Quarter Sessions.*

Cap. 8. inditable, especially if he send a Challenge in Writing.

Destroying
houses,
parkes, &c.

Fine,
Imprison,
3 moneths.

Striking in
a Church-
yard lost of
an ear,
To be mar-
ked with
an F

Great Fine,
Good be-
haviour.

If any do outrageously or riotously pull down, or spoil any houses, pales, mills, Dove-houses, hayes, ditches, inclosures. Or spoil, or rob any fish-pools, Parkes, Warrens, or take any Hawkes, or Hawkes eggcs, or the like.

If any do maliciously strike another in the Church or Church-yard with a Weapon, or draw a weapon to that purpose, this is a great Offence. So to strike another in the presence of a Judge is a great Offence. So to strike an Officer, especially in the doing of his Office. So for a Servant to strike a Master, Dame, or Overseer, is a great Offence.

Ordinary Trespasses follow. If a man unlawfully assault, imprison, beat, or wound me, or unlawfully take away, break, or spoil my Goods; chase, kill, or hurt my Cattell, break or enter into my house, enter into my Land, cut, spoil, eat up, or tread my Grasse, or Corn, break my Walls, dig or carry away my earth or coal, lop, fell, bruise, or break my Hedges, or Trees, carry away my wife, son and heir, or ward, or unlawfully arrest my Goods or Cattell, break or cut my sluices, or shear my sheep, let out the water out of my Mill-pond, beat my Servant so that I lose his service, or do to me any other such like wrong, for which I may have an Action of Trespass against him. For this Offence he may be indited and fined in this Court. And yet I have my Action against him notwithstanding. For in all these Acts there is a double Offence, the one against the Common-wealth for which he is to be punished by fine, the other against

me

The Charge for Quarter Sessions.

63

Cap. 8.

me, for which I by my suit shall have amends in Damages.

If any lewd person have, or hath procured to be unlawfully cut or taken away any Corn growing, or rob any Orchard or Gardens, or break or cut any hedge, pale, raile, or fence, or dig, pull up, or take away any fruit-trees, or cut, or spoil any Woods, under-woods, poles, or trees standing, not being Felony.

First offence
amends or
whipping,
2 offence
whipping
and good
behaviour,
and house
of corre-
ction.

The Constable to be committed till he procure him to be whipped, 43 El. 7 Jac. 4

If any have by night or day unlawfully broke or entred into any Park impaled, or other severall Grounds inclosed, used for the keeping of Deer; or in the night time unlawfully, and there hunted, driven, or chased out, taken, or killed any Deer or Conies against the Owners will.

Imprison-
ment three
moneths,
3 Damages
to
Fine,
12 Jac. 13
7 Jac. 13

There do follow in the next place such Trespasses which are accompanied more with fraud and deceit, than with force and violence.

If any do conspire, and confederate together, to cause another to be unjustly indited for an Offence, whereof he is afterwards acquitted. And in this four things must be known. 1. That there must be two or more persons in the Plot or practise. 2. There must be an Inditement and Arraignment of the party. 3. All this must be voluntary and advised. 4. The party indited must be *legitimo modo acquiescens*; otherwise the party is not inditable.

Self. 14.
Conspiracy,
Fine,

If any publish any false newes, whereby discord may arise between the King and his People, or the Lords and Commons, or if any one do contrive or publish any newes against ano-

Slander,
Imprisoned
till he finde
his Author,
or good be-
haviour,
Westm 1. 34
2 R. 2. 5

E c

thers,

Cap. 8.
Libell

ther, whereby discord may arise in the Realme.
If any do libell against another man, that he
make or promote any scandalous Writing or
doing to the defamation of another man, espe-
cially if he be a Magistrate.

Slanderous
words

If any man slander me by such words as for
which I may have an Action of the Case, as to
say I am a Traitor, Felon, Thief, Robber, or
the like, for this he may be indicted and fined.
But not for words, that will not bear an Action,
though they are motives to the Breach of the
Peace.

Deceit

If any man do so deceive as I may have an A-
ction of the Case for the Deceit, it seems for the
Offence he may be indicted also. And therefore
one sell me that which is none of his own, or sell
me false and deceitfull Wares. Or play with me
with false Dice. Or being a Millard do change

Misfeasance
Nusance

my Grist, this is punishable here. And so in any
Misfeasance by a Nusance, or otherwise, where
an Action of the Case lyeth, and the Writ
contra pacem. And therefore a man may be pu-
nished here for stopping a Ditch, whereby my
Ground is drowned; over-riding my Horse, dis-
turbning me in my way, Office, Buriall, or the
like. So for stopping of my Lights, laying
blockes in the high-way, whereby my Horse is
occasioned to stumble, and I am hurt. So for
any other Nusance done to men in the Water,
Air, Light, or Wayes; as by setting up houses
of office, Lime kills, Dye houses, unnecessary
gates, or turning of Waters in the high-way.
But to set up a new Mill, a new Pigeon-house,
or anew Coniger is no Nusance.

Watring
Hemp

If any water any Hemp or Flax in any River,
Stream

The Charge for Quarter Sessions.

65

stream, or common pond, where cattell use to drink.

If any one get the goods of another by privie tokens or counterfeit letters, in other mens names, to persons that are their speciall friends and acquaintance.

If any forge a deed, that is, make and publish any false deed or writing to the prejudice of anothers right, either to charge or get his Land or goods; as if a Coppy holder make and publish a Customary for a usage, and put Seales to it, to the prejudice of the Lord, or one forge a Testament, whereby a Lease for years is given, or if any man make use of any such deed, knowing it to be so forged. These may be punished by the Common Law, but the power of execution of

the Statute is not given to the Iustices of the Peace.

Thus much of Trespasses by force or fraud.

If any man but such as have authority, go, or ride armed, in an unusuall manner, this is an assault, and breach of the Peace, and every man may arrest them. This offence is thus expressed in the Commission. *De illis qui in conventibus contra Pacem nostram in perturbationem populi, seu vi armata tenent, vel equeitaverunt.*

If three or more come together with an intent violently and forcibly to commit an unlawfull Act, as to beat or wound a man, enter into, break or pull down some house, wall, pale, hedge, or ditch wrongfully enter into a mans possession to claime or take a common or way, to destroy any Park, Mill, or stacks of Corn, take away a mans wife, or the like, and they do willingly depart, and do nothing, yet this is an unlawfull meeting, and punishable.

Cap. 8.

33 H. 7. 1.
False tokens
Any corporall punishment but death, the Iustices shall set down.
33 H. 8. 1.
Forgery,
Fine, and
Impris.

5. Eliz. 14.

Secl. 15.
Ride armed,
Impris.
loss of Armour.
Stat. Northampton.
2 Ed. 3. 3.
Unlawfull Assembly.

Chap. 8.

Rout.

If after their meeting they move forwards towards the execution of the act, whether it be done or no, it is a Rout. And if it be done, it is a Riot. So that every Riot doth include a Rout, and an unlawfull Assembly. And that act which is a Riot in the execution, is a Rout, and an unlawfull Assembly in the Preparation. And that which is an unlawfull Assembly in the first meeting, is a Rout in the further proceeding, and a Riot in the finall execution. To this there must go three things. 1. There must be three persons at the least gathered together. 2. Their intent in the first meeting must be evil. 3. Their being together must breed some apparant disturbance of the Peace, either by speech, shew of Armour, turbulent gesture, or actuall and expresse violence, to affright peaceable men, or embolden light men by their example.

3R 4/17

Affray

Prophecy

101. Imprisonment

a year with-

out Bail

20. Imprisonment

during life

losse of all

his goods &

chattells.

5. Eliz 15

Forcible

entry, or de-

rainer

If any stirre up another to do such an act, or if any be stirred up hereunto, and doe not within 24 houres after disclose it to the Sheriffe, or a Iustice of Peace. But herein you must know, that this doth not prohibit Assemblies to lawfull ends, as to do execution of Iustice, to take downe common Nufance, for a lawfull recreation, or the like.

If any great affray be made in a disturbance of the Peace, and you are to find who they were that did it, and in what manner it was done.

If any divulge any Prophecie with intent to make rebellion or other disturbance in the Realm.

But he must be charged within six moneths after the offence is done.

If one make forcible entry into Lands, and do forcibly detain Land, (that is) do violently and actually

actually enter into any houses, or lands, or take any distresse being weaponed, whether he offer violence, or fear of heart to any there, or furiously drive our any out of the possession thereof, or not, or having entered into the Lands peaceably doth after hold the same with force, which is said to be a violent act of resistance by a strong hand of men weaponed with harnesse, or other action of feare, by which the lawfull entry of Justices or other, is barred or hindred, for the better understanding whereof, you are to know these things. . 1. That one man alone may commit this offence. 2. That an Infant or seam Covert, as they commit most other criminall offences, so they may commit this offence. 3. If divers come in company to do this or any other Trespasse, and one of them alone doth the wrong, and the rest stand by, and look on, and doe not withstand it, they are all guilty. 4. If it be done by three or more, then it is a Riot, which of his owne nature is a great Trespasse also.

Chap. 8.
Imprisonment, Fine, and to remove the force, and upon pledges found for the Fine to deliver them Make restitution, but not without Inquiry,

5 R. 2. 7.
15 R. 2. 2
8 H. 6. 9
31 Eliz. 11
21 Jac. 15
21 H. 6. 5
Riot

If any one above 15 yeares old, under the degree of a Knight, required by any Justice of Peace, or the Sherriffe, to assist in the suppressing of a Riot, and the punishment of the Rioters, refuse it.

Great Fine.

Offences against the Justice of the Kingdom. Sect. 16.

The Statutes of Winchester are especially commanded to be given in charge, the Articles whereof are as followeth.

For the apprehending of Felons, Hues, and Cryes must be solemnly made in all Counties, and Hundreds, markets, Faires, and all other places where resort of people is, and immediately upon the felony committed, fresh suit must be made

hues and Cryes,

Cap. 8.

Fresh suit,

Fine

from town to town, and Country to Country; and every man as well within Franchises as without, is to be ready at the commandment of the Sheriffe and cry of the Country to sue and arrest felons, *Stat. of Winchester 13 Ed. 1. Ch. 2.* So that if a felony be done, and he to whom it is done, or another of the company, or some other cometh to the Constable of the next place, and doth tell him of it, and describe the felon, and which way he is gone, the Constable is presently to call upon the Parish, and they are to make a fresh pursuit, and an earnest and diligent search for him; and if they find him not, to tell the next Constable, who with his Parish also are to do likewise, and so to follow the pursuit of the felon to the Sea side, or till he be apprehended.

Dale. Just. p.

ch 28.

Grievous

Fine

If any Sheriffe, Coroner, Steward, Bailiffe of Franchise, or other, shal for fear, favour or reward, conceal or consent to the concealment of any felony, or do not his office in the arresting of felons, and his endeavour to punish them, if any neglect thereof have been therein. If Hues and Cry have been raised without cause, or having cause, if they have not duly raised, and effectually pursued, you are to present it.

Watch

In great walled Townes the gates must be shut from Sunsetting to Sunrising, and no man is to lodge in the Suburbs nor out of the Towne from nine of the clock till day, unless his host will answer for him, and the Bailiffes of the Towne must enquire of such persons once within every 15 dayes, and if they find any man to have harboured such suspicious persons, they are to be punished as breakers of the Peace.

Stat Winch

ch. 4. 5 H. 4.

3

You are therefore to enquire whether the watch
be

The Charge for quarter Sessions.

69

Cap. 8.

be kept from Ascension day till Michaelmas, from Sunſet to Sunriſing, and with a number of men, as is fit for the place. And if any ſtranger paſſe by them, they muſt arreſt him till the morning. And if then he ſeem ſuſpicious, they muſt deliver him to the Sheriffe. If otherwiſe, then they are to let him go; and if he reſuſe to ſubmit to the Arreſt, and get away, they may ſend Hue and Cry after him till he be apprehended.

Stat. Winch
ch. 4.

5 H. 4. 3

There are many Lawes that doe concern officers, Sheriffes, Bailiffes, Conſtables, Eſcheaters, Ordinaries, Coroners, Clerk of the Market, overſeers of the poore, and others. They altogether ſpeak thus much in the generall, that Officers muſt be ſkilfull, and faithfull, attend their Charges, and be content with their wages. If any negligence or corruption be found in any of them, it is to be puniſhed here.

Stat. 17.
Officers

This offence is thus ſet forth in the Commiſſion.
Ac etiam de quibuscunque Vicecomitibus & aliis officiariis, qui in executione officiorum suorum circa premissa, seu eorum aliqua indebite se habuerunt, aut tepidi, remissi, vel negligentes fuerunt.

If any under Sheriffe, Bailiffe of Franchiſe, or Sheriffes deputy appointed to have to do in the returning of Iuries, or execution of Proceſſes, do intermeddle therewith before he hath taken the Oathes ſet down in 27 Eliz. ch. 12. or after he is ſworn to do any thing againſt the ſe Oathes.

Sheriffe
40 pound
if he impan-
nel any Iury
before.

If the Sheriffe return iſſues upon Iurors nor having ſummoned the man.

27 Eliz. 5

If a Sheriffe embezzle a Writ, or make a falſe return.

Treble
damgages
and Fine.

If he or his Officers levy the Kings debts by Rolls, and not by Eſtreats under the Exchequer

E c 4

Seal

Cap. 8.

Seal, 42 Ed 3.9 or they do not rot that which paid, so that he be made to pay it again.

Letting his
Bailiwick
Return of
Pannells
Bail

If any Sheriffe let his Countie, or any of his Bailiwicks, Wapentakes or Hundreds, or have returned in any Pannells any Officers or their Servants, or Servants Servants, or have refused to let to Bail upon sufficient Sureties any person arrested on an action personall, or an indictment for Tre'passe (not being in for condemnation, execution, outlawrie, excommunication, Suretie of the Peace, or commanded of any Iustice, or for being a vagabond, or if he have taken any obligation by colour of his Office, but only to himself, and upon the name of his Office, and upon condition onely to appear according to the Writ or Warrant.

40 pound for
every offence
treble dam-
ages to
the party
grieved
Obligation

23 H. 6. 10

County
Court

If any Sheriffe or his Ministers have entered into his book any Plaints in any mans name, not being present at the Court himself, or by his sufficient and honest Atturney, or deputy; or if he hath entered any more Plaints then the Plainriffe supposeth he hath cause of action for. Or if he hath levied the Shire americiaments without a book indented between him, and two Iustices of Peace. Or if the Bailiffe of the Hundred have made default in warning or executing any Warrants against any Defendant in the Sheriffes Court. Or if the Bailiffe be not sworn before the Iustices of Peace to collect no more money then what is in these Filtreats.

40 s. every
offence

11 H. 7. 15

Return
5 Marks to
the King
5 Marks to
the party

Or if the Sheriffe do not see that the Plainriffe do put in pledges to prosecute his Action.

If any Sheriffe that hath the returne of any Writ, return any Iuror without the Addition of his place where he doth now, or did within a

year

The Charge for quarter Sessions.

71

Chap. 8.

yeare past dwell, or some other addition where by he may be known: or if any Estreat of issues hath been gathered of any person other then such as by vertue of the said Estreat was of Right chargeable.

37 Eliz 7

If any Sheriffe or his Officers having received money for the forfeiture of a man for selling of Beere to an unlicensed Alehouse upon the Statute of 4 Jac. 4. and refuse to pay it to the Churchwardens and overseers.

Double value

If he do not return sufficient Jurors to enquire of forcible entries, or otherwise neglect the lices warrant.

Return of Jurors 20 pound 8 s. 6. 9

The Clerk of the Market, or other Officer for that purpose is to mark and Seal such weights and measures as are brought to him. 2. According to the Exchequer measure. 3. This he is to do but once, not every yeare.

Clark of the Market

If a Gaoler suffer a prisoner to have more Liberty then is fit, for prisoners must be kept in *salva et arcta custodia*. Or if he refuse to take in such prisoners as are sent to him, or suffer escapes.

Gaoler Finable

If any Steward of a Leet, or officer of Market town have taken any Fine for breach of the Assise of bread or beer in such cases where corporall punishment is appointed.

Steward of Leet 13 R. 2. 8

If the Coroner do not come upon request, and enquire upon the view of any person, slaine, drowned, or otherwise dead by misadventure.

Coroner 40 s. 1 H 8. 7

If any Escheator take upon him the Office not having twenty pound a yeare Land in the County, or sell or let to farm his office. Or make Depuries for whom he will not answer, or whose names he hath not certified unto the Exchequer within twenty dayes.

Escheators 40 pound 12 Ed. 4. 9

If

Cap. 8.

Ordinary.

10 pound

21 H. 8. 6

Owners and
Rulers of
Faires, and
Markets,
40 pound

40 shill.

2 and 3 Ph
& Ma. 7

5 pound e.
very default

31. Eliz. 12
40 shil. eve.
ry fault
2 and 3 Ph.
& Ma.

If the Ordinary delay to prove Wills at the pay and fees appointed, or to grant administration according to the Statute, or to deliver Copies of Testaments or Inventories.

If any owner, or officer, ruler of a Faire have not appointed one certain open place there, for the sale of horses, geldings, mares, and colts, and one sufficient person to take toll, and keep the said place, and take toll there from 10 a clock to sunset. And take any toll after or before, or else where. And if he have not the parties contracting, and horse for which the contract is made present. And doe not take and keep a book, and therein write the names of the persons contracting, the place of their dwellings, and colour, or some speciall mark of the horse.

If any have in any Faire or Market sold or put away any kind of horse, unlesse the Toll taker, or chief Officer there will take upon him perfect knowledge of the person, his name and place of dwelling, and enter the same into his book. Or unlesse the seller bring to the Toll taker one credible man that will testifie that he knoweth the man, his name, mystery, and place of dwelling, and then enter the same. And the names, mystery, and place of the testifier and the price of the horse. And if any testifie that doth not truly know the same. Or if the Toll taker shall refuse to give a note to him that buyeth of that mtry, paying 2 d for it.

If the Toll gatherer, or book keeper do not within a day after the Faire or Market bring his book to the Governour. And if he do not cause a note to be made of all the horses sold, and subscribe his name or mark to it.

If

The Charge for quarter Sessions.

73

Cap. 8.

If Head Officers of Towns have not twice a year made view and examination of the weights and measures there, and break and burn the defective.

Head Officers of towns, fine 11 H. 7. 4

If the Constables and Churchwardens doe not present the monthly absence of Recusants from Church.

Constables Overseers of the poore Churchwardens

If the Constable or other Officer do not his office against Drunkards, upon 4 Jac. 5. Or if he do not his duty in the levying of money upon Alehouse keepers according to the Stat.

1 Jac. 9
10 shil. to be levied by distresse and sale 20 shil.
Double the value;

If the Constable hath not punished Rogues according to the Statute of 14 Eliz. 5. 1 Jac. ch. 7. especially when they are brought to him.

If the Churchwardens, and overseers of the poor, to whom money forfeited by 4 Jac. 4. is payed, do not bestow the same amongst the poore, according to the Statute of 1 Jac.

If the Churchwardens do not levy the money for the relief of Prisoners according to 14 Eliz. 5. 1 Jac. 25.

If the Constables and Churchwardens do not in Easter week chuse Supravisors every year to look over the highwayes according to the Statute of 2 Ch. 3 Ph. 4. Ma. : ch. 8.

20 shillings

If Constables do not assist men against the unjust taking of Purveyors, being required.

20 H. 6. 2

If either of these Officers slight or neglect to execute the Iustices of Peace his warrant in case where they have authority, and are commanded by it.

Fines

If Constables and Churchwardens do not pull down Maypoles within their Parish.

5. shillings a week
5 pound

If overseers of the poore put out such poor out of their Parish, as ought not to be put out against 39 Eliz. 4.

good behaviour

If

The Charge for Quarter Sessions.

If the Over-seers of the Poore doe not their duty according to the Statute of 39 *Eliz.* 34. 43 *Eliz.* ch. 2. as to set the poore on work, make and levie Rates, meet monethly and give Account.

If they refuse to give account to be committed.

Minister

If Constables and such like Officers doe not their best to keep the Peace, to part Affrayors, keep them asunder, and if he do not bring them to prison when he hath done.

If the Minister of the Parish doe not keep a Register Book to enter the Testimoniall for Rogues, according to 39 *Eliz.* 3. & 4. And there must enter Licenses for sick persons to eat flesh, and a Testimoniall for Servants departing from their Masters.

Informer
28 *Eliz.* 5.
27 *Eliz.* 10
31 *Eliz.* 5
Pillory two
houres on a
market day,
10 l. and
deposed

If a common Informer informe after hee is legally put out, or being duly in, compound with any offender, without license of the Court; or doth follow any suit by his Deputy, and not in person, or by his Attorney in Court: Or if hee compound before the Party answer, or after, or take any reward or promise, without consent of the Courts at *Westminster*, or one of them.

Gawgeor 4
times the
value of that
which the
vessell shall
lack.

If the Gawgeor doe not Gawge all the Vessels that come into this Realm within the limits of his Office, according to the contents of the Statute, 28 *H.* 8. 14. and mark upon the head thereof his content, according to 1 *R.* 3. 13.

Searchers
and Sealers
of Leather
40 l.

If Bailiffes and Heads of Cities, Burroughes, and Market-townes, and Lords of Liberties out of such places, do not yearly appoint and swear two or three, or more, skilfull and honest men, to be Searchers and Sealers of Leather there, and six honest men to try it. Or if such Search-

er or

The Charge for Quarter Sessions.

75

er or Sealer refuse to execute this Office; or
if Tryers refuse or delay, and doe not their du-
ty, or if Searchers or Sealers refuse or delay to
seale good Leather, or allow unsufficient Lea-
ther, or receive any bribe for executing of his
Office.

Cap. 8.
Ten pound
Five pound
Fourty Shil.
1 Jac. 22

If the Treasurers of the County stock for
poore maimed Souldiers and Mariners, do their
duty according to

Treasurers
for maimed
souldiers

If the Searchers of Tyle appointed by the
Justices of Peace, doe not search the Tyle, and
present the defaults of Tyle-making at next
Sessions.

43 Eliz. 3
Searchers of
Tyle
very default
17 Ed. 4. 4

If an Atturney sue another man of his owne
head in anothers name, without Authority, or
discover his Clients counsell, or the like.

Atturney

If the Supravisors of High-ways doe not set
the Inhabitants their dayes for work for them
and their Plowes, and see they doe it, and pre-
sent the defaults according to the Statutes to
the next Justice of Peace within a moneth

Supravisors
of the high-
ways,
10 s. 2 & 3
Ph. M. 8
5 Eliz. 13

If the Governour of the House of Correcti-
on doe not his duty according to

Gov. of the
house of
correction

If the Over-seers of Cloth appointed by the
Justice of Peace, doe not their duty, in look-
ing to the Cloth that is made, that the Ordi-
nance of Parliament be observed. They are
once a quarter at least to visit the Houses and
Shops of Cloth-workers, Dyers, Drapers, and
to view the Cloth made: Or if they refuse or
neglect their Office, or to take their Oath. If
they refuse to appeare, or be bound in a Recog-
nizance.

Over-seers of
cloth
10 l every
default
3 Ed 6, 2
21 Jac. 18.
39 Eliz. 10
43 Eliz. 10,
5 l. to be co-
mit. til paid,
5 l commit.
till paiment

If the Collectors of the money for the reliefe
of

Cap. 8.
Collectors
for prisoners
in the co-
mon Gaole.
Purveyors,
2 H. 6. 8.
23. H. 6. 2.
Double
damages
20. l.
Double the
value
3. Eliz. 7. 5.
Treasurers
for the
Kings Bench
Sect. 18.
Extortion
Finnable.
27 H. 8. 17.

1 H. 4. 1.
Finn. l. p. 170

Sheriffe or
his Officers.

40. l. fore-
very of.

Treble da-
mages to
the party
grieved.

23. H. 6. 10

29 Eliz 4

of the Prisoners in the common Gaole, doe m^e their duty according to 14 Eliz. 3.

If Purveyors take goods, and not pay for them; Or if any such Officers have procured any to be arrested, or vexed, for resistance of their unjust demands. If they take Sea-fish from any Sea-man against his good will.

If any Purveyor of Timber have felled any oke-timber fit to be barked, but according to the Statute of 1 Jac. 22.

If the Treasurers for the relieve of the prisoners in the Kings Bench and Marshalsey, doe their duty according to 42 Eliz. 2.

If any Officer *Colore officii* (be he within or without a Liberty) require more money for the doing of any part of his office, than is due and appointed, this is extortion. And this is within the Commission, in these words, *De extortionibus*.

By *Westm. 1. 3 Ed. 1.* No Minister of the King may take any reward for doing his Office.

The Sheriffe is not to take above 20. d. for an Arrest; neither he nor any Officer of his, to take any thing for any Return or Pannell, or to take above foure pence for the Obligation, or any Warrant or Precept, nor is he or any Bailiffe to take above foure pence for any Arrest. Or the Gaoler to take above foure pence upon the Commitment of any person arrested to him; neither he nor the Gaoler are to have any thing of Constables, or Townships, when they deliver in Felons to them, yet they are to receive them.

The Sheriffe for doing execution upon body,

The Charge for Quarter Sessions.

77

dy, lands, or goods, is to have but twelve pence the pound under a hundred pounds, and six pence for the residue. Cap. 8.

An Escheator is to take for the extinction of a *Dum clausit extremum*, or other Writ in one County, but forty shillings in all. And if the lands be not above five pounds, he is to take but fifteen shillings in the whole. And where the lands are not found to be held in *Capite*, he is not to take any thing at all. Escheator 23 H. 8. 17

The Coroner is to do his Office upon the view of a dead body by misadventure, without taking of any Fee. And upon the view of a dead body slain, he is to take but 13 shillings 4 pence of the goods of the murderer, if he have any, otherwise of the Town where he was slain in the day time, and suffered to escape. Coroner. 40. s. 5. l. 3 H. 7. 1 1 H. 8. 7

The Justice of Peace for the Imprisonment of a Deed, is to have no more than the Clerk of the Peace. Justice of Peace. 27 H. 8. 16

If the goods be not above five pounds, the Ordinary is to have for the probate of the will, or letters of Administration, but 6. d. Ordinary.

If above five pounds, and not above forty pounds; 2. s. 6. d. for the Ordinary, and twelve pence for the Scribe. If above forty pounds, then two shillings six pence to the Ordinary, and two shillings six pence to his Clerk. Or else one peny for ten lines at ten inches. The like must be given for the Copy of a Testament, or Inventory, and to take more is Extortion. 10. l. and so much as they take more than due. 21 H. 3. 8. F. L. P. 173

Ministers must take but four pence for the License of a sick person to eat flesh on a Fish-day: Two pence for a Testimoniall of a Servant departing from one place to another. Minister. 40. s. and as much above as he takes. 5 Eliz. 4. 5

If

Cap. 8.Mortuary
40. l and as
much.

If any Ordinary, Parson, Vicar, or other, take money for a Mortuary where none is due, or more than due where it is due, this is Extortion, 21 H. 8.

Clerk of
the peace.

The Clerk of the Peace is to take but twelve pence for inrolling any bargain and sale of land not above 40. shillings a yeare; but two shillings six pence if the Land be more: Hee is to take but two shillings in all for any License and Recognizance of a Badger, Drover, Kidder, or Linder, and for the registering thereof; and twelve pence for a License to shoot in a Gun to kill Hawkes-meat; and but twelve pence for a Recognizance of him that taketh a Rogue into his service but one yeare. And hee is to have nothing for the recording of a Presentment of the monethly absence of a Recusant.

27 H. 8. 16

5 El. 2. 12.

1 Jac. 27.

14 Eliz. 5.

3. Jac. 4.

Major.

If any Major take above a peny for sealing a Bushell, and all other measures above a halfe peny; or above a peny for an hundred weight, or a halfe peny for halfe a hundred weight, or a farthing for a lesse weight.

7 H. 7. 13.

Clerk of the
Market.

If after he hath once sealed he take any thing for the sealing thereof again, or for the shewing thereof. And hee is to take no money for any Bills, &c. or examination of weights, &c.

Hee that keepeth the Standard for the Shire-town, is to have for sealing a Bushell one peny, for other measures an halfe-peny; for every hundred weight one peny, for halfe a hundred weight a halfe-peny, and for lesse a farthing.

Cook. 1.part of his
inlt. 274,
275.

The Clerke of the Market is to have fourte pence for marking and sealing a Bushell; two pence the halfe Bushell, one peny the peck, &c.

sic

The Charge for Quarter Sessions. 79

sic pro rata. If he take a common fine, all this is Extortion. **Cap. 8.**

If a Justice of Peaces Clerk take above twelve pence for a Recognizance of an Ale-house-keeper or Tipler. **Clark of the peace. 5 Ed. 6. 25.**

The Tol-gatherer is to take but one peny for one Contract, and setting down the names of the parties thereunto, and two pence for a note of the Entry. **Toll-taker 2 & 3 Ph. & M. 7. 3 1. Eliz. 12.**

The Seacchers of Tyle are to have for every thousand plain Tyle one peny, every one hundred rooffe Tyle one halfe-peny, and every hundred Gutter-ryle and Corner-tile one Farthing. **Searchers 17. Ed. 4. 4**

If any man take above foure pence for impounding one distresse. **Extortion. 1 & 2 Ph. & M. 2.**

If any Officer bee opposed or abused in the execution of his Office. **Se8. 19. Officer Pound-breack.**

If any man break or open the common Pound, and take or let out any Distresse which was therein, or let a man out of the Stocks, or the like.

The Instruments of Justice, as Stocks, Pillory, Pounds, and the like, must be had in all places; and they must be such as are usefull, and defaults herein are to be presented. **Instruments of Justice.**

Now follow the Articles which concerne the Trade of the Kingdome, buying and selling, and Tradesmen. **Se8. 20.**

There are many Lawes that concern Trading and Traffick, which may bee thus reduced: **Trading and Traffick.**

1. None may exercise some Trades before they have been trained up in them. 2. Tradesmen must sell true, not false and sophisticated Commodities, especially provision. 3. They must **Apprentices Prices.**

Cap. 8.

sell at reasonable prices, and for moderate gain.
4. Bakers, Brewers, and such like Tradesmen must keep the Affizes. 5. All Tradesmen must sell by just weights and measures.

The offences against these Lawes, are either in their entrance into their Trades, or in the use and exercise of their Trades.

Those that are in the exercise of their Trades are, 1. In the persons selling, or to whom the things are sold. 2. In the preparing, making, selling, or in the commodities themselves, and things sold. 3. In the places where the things are sold. 4. In the prices of things sold. 5. In the measure or weight by which the things are sold. For the resistance of which distempers, some Lawes are made for prevention of the disease before, some for the correction and cure of the disease afterwards.

Wine.

If any sell Wine or Ale without Authority or license.

License.

7 Ed. 6. c

5 & 6. Ed. 6.

25.

Apprentice

10 l.

5 Eliz. 4

3 Car. 4

If any man have used or occupied any Art or Manuall Occupation used in the fifth yeare of Queen *Elizabeth*, which hath not been brought up therein seven yeares at the least as an Apprentice. Yet Church-wardens and Over-seers may use any Trade for the setting of their poor a-work.

Butchers 6 s

8 d. every

day.

1 Jac. 23.

Tanners lose

the hides &

skinstanned

1 Jac. 22.

If any man during the time he hath used the Occupation of a Butcher, hath also used the mystery of a Tanner.

If any person (during the time he hath used the mystery of a Tanner) hath used also the mystery of a Shoe-maker, Currier, Butcher, or of any Artificer using the cutting or working of Leather.

The Charge for Quarter Sessions.

81

If any Brewer of Ale or Beere to sell, shall use the mystery of a Cooper, or make Barrels, &c. 23 H. 8.4. Cap. 8. Brewers

If any person other than such as had a Tan-house, 19 Martii 1603. and did then occupy Tanning of Leather, or hath been taught as an Apprentice, or hired Servant, seven years in the mystery of tanning Leather, or hath been wife to a Tanner, or son of a Tanner, brought up in that mystery foure years, or the son or daughter of a Tanner, or such person as hath married the Wife or daughter of a Tanner (that left to the same his Tan-house and Fats) have tanned any Leather, or taken any profit by Tanning thereof. Lose all the leather tanned.

If any person being a Currier, hath (during the time that he hath used Currying) used the feat of a Tanner, Cordwainer, Shoemaker, Butcher, or other Artificer using cutting of Leather. Six shillings eight pence for each hide or skin

If any one to whom any unlawfull Leather hath been given by the Statute, have given or sold the same to any person that hath sold the same again. Three shill. four pence by the buyer

If any man forbidden to make Malt to sell, do not forbear. Malter. Imprif. til he give bond to obey.

If one sell another that which is not his own, and after the owner take it away from him that bought it. Cheater.

If any Brewer sell his Beere to any unlicensed Ale-house-keeper, except it be for his owne house. Brewer. 6 s. 8 d. the barrill. 4 Jac 4. 5 Eliz 5.

If a Viſtualler sell flesh on a Fast day to one that hath no license to eat it.

If any one have bought to sell again, or sold any

Cap. 8. any Deere, Hare, Partridge, or Pheasant, not
Every Deer brought up in his house.
 40 sh Hare
 20 shillings, Pheasant 20 shillings, Partridge 20 shillings, 1 Jac. 27

Hides

If any person have bought, contracted for, or bespoken any rough Hide, or Calves skin in the haire (except salt hides for the necessary use of Ships) but such persons onely as shall and may by this Act Tan the same, or will tan the same.

Leather

If any person hath bought, sold, or bespoken any tanned Leather, not wrought into made wares, (other than Shreds and Neckes of Saddlers and Girdlers) but such person onely as will convert the same into made wares.

In-keeper

2 Ed. 6. 9

5 Eliz. 1

35 Eliz. 7

1 Jac. 29

Victualler
 sell corrupt

viſuals

Fine

Tanner

3 sh 4 d

Arrow-head

Smith

Loose the

head. Impr.

Fine.

7 H. 4. 7

Deceit in

selling

Butchers

20 sh for

every hide

1 Jac 22

Tanner

If any In-keeper or Victualler sell flesh on a prohibited day, or any man eat it on such day.

If any Victualler sell, or offer to sell any corrupt or unwholesome Viſuals, as flesh mested, that died of the Murrain, or the like.

If a Tanner put to sale a putrified or rotten Hide.

If any arrowhead Smith have not well boiled, brased, and hardened at the point with steel, and marked with his mark such heads of Arrows and Quarels as he hath made.

If one sell another deceitfull Wares, and know them to be so, and warrant them to be right: for otherwise (except it be Viſuals) it is not inditable by the Common Law.

If any Butcher have gashed, slaughtered, or cut the Hide of any Ox, Bull, Steer, or Cow, whereby it it impaired; or have watered any Hide, except in *June, July, and August.*

The Charge for Quarter Sessions.

83

Cap. 8.

If any Tanner have suffered the same to lie in the Limes till the same be over-limed : or have put the Hides in any Tan-fats before the Lime be perfectly wrought out of them : or have used any thing in tanning but Ash barke, Oak bark, Tapwort, Malt, Meal, Lime, Culverdung, or Hending : or hath suffered his Leather to be frozen or parched with the Fire or Sun : or have tanned with Cotton hides : or have not suffered the Hides for outer soal leather to lie in the Woozes twelve months, and for the upper Leather nine months : or have negligently wrought the Hides in the Woozes : or have not renewed their Woozes as oft as was requisite : or have put to sale any tanned Hide not wrought according to the Statute.

Lose the hides or value

If any Tanner have raised with any mixture any Hide to be converted to Backs, Bend Leather, clouting leather, or any other soal leather, except the same be fit for that purpose.

Tanner Lose the hides

If any put to sale, or otherwise depart with any tanned Leather (red and unwrought) but in open Faire or Market in the places therefore prepared, unless it hath been first lawfully searched or sealed, in some open Fair or Market ; or put to sale any Leather, before it hath been first searched or sealed, according to the Statute. skins, or sheep skins 3 sh 4 d and the hides or skins, or

Tanner For every hide or piece of Leather 6 sh. 8 d and for every 12 Calves their value

If any Tanner put to sale any Leather insufficiently, or not thoroughly tanned, or not well and thoroughly dried, & the same so found by the Triers of Leathers appointed by the Statute.

Tanner so much Leather

If any have set his fats in Tan-hills, or other places where the Woozes or Leather to be tanned in the same may take any unkinde heats, or

Tanners ten pounds pillory three market days,

Cap. 8. hath put any Leather into any hot or warme Woozes.

Currier
6 sh 8 d
and the va-
lue of each
skin warred
(except
galling in
shaving)
and for that
double so
much as
the Leather
hurt

If any Currier have curried any Leather in his owne house in a Corporate or Market Town. Or have curried any Leather not well tanned, or not thoroughly dried after his w^{et} Season, or have used in such wet Seasons any deceitfull means to corrupt the same; or have curried any outer soal Leather with any other stuffe than hard Tallow, or less of that then the Leather will receive; or inner soal Leather, or over soal Leather, but with good stuffe, being fresh and not salt, or have not liquored them thoroughly, or have skalded or shaven too thin, or galled in shaving, or otherwise, or not wrought sufficiently any Leather.

Shoemaker

If any Shoo-maker have made any Bootes, Shooes, Buskins, Startups, Slippers, or Pantofles, or any part of them of *English* Leather well curried (other than Deer, Calve, or Goat skins, dressed like *Spanish* Leather) but of Leather well tanned, and curried, or well tanned onely, and wel sewed with threed wel twisted, waxed, or rosened, with the stitcher hard drawn with hand Leathers, without mixing Neates and Calve Leather, in the over-leathers thereof: or have put into any Shooes, Bootes &c. any Leather made of Sheeps skin, Bull hide, or Horse, hide, or into the upper Leather of any Shooes, Startups, Slippers, or Pantofles, or into the neather part of Bootes (the inner part of the shooe onely excepted) any part of the wombe, neck, shank, flank, pole, or cheek of any hide, or into the utter soal, other than the best of the Oxe, or steer hide; or into the inner soal, other than the wombe

The Charge for Quarter Sessions. 85

Cap.8.

wombs, neck, pole, or cheek; or in the Trefwels of the double soled shooes, other than the flankes of any of the said Hides; or have put to sale in any year between the last of *September*, and 20th of *April* any shooes, boots, buskins, startups, slippers, or pantoffles meet for any person above four years old, wherein hath been any dry *English* Leather (other than Calve, or Goats skins dressed like *Spanish* Leather.)

If any Goldsmith or worker of silver have wrought any silver that is not so fine in allay as the Sterling; or have not set his mark upon his Work before he set it to sale; or if any have gilded any sheaths, or any metalls but silver, saving the Spurres of Knights, and the Apparell of a Baron, or such as are above that Estate.

Goldsmith

Double value,

1 H. 6. 14
8 H. 5. 3

If any Tile-maker have not digged and cast up his Earch for Tile till after the first of *Nov.* or have not stirred or turned it till after the first day of *February* following; or if he have wrought it before the first of *March* following; or if he have not wrought, and tried it from stones, veins, and chalk; or if he have made, or any other put to sale any plain Tile under ten inches and a halfe in length, six inches and a quarter in breadth, and halfe an inch and a quarter in thickness, or any roof-tile under thirteen inches in length, and halfe an inch and halfe a quarter in thickness, with convenient deepness; or any gutter-tile under ten inches and a halfe in length, with convenient thicknesse, breadth and depth.

Tilemaker

For every hundred of plain tile 5 shil. and every hundred of roof tile 6 sh 8 d

7 Ed. 4. 4

If any Milt be made of Barley but in *June*, *Malters* *July*, and *August*, to be sold, but what hath three weeks time in the *Fat*, *Floor*, *steeping*, *quarter*

F f 4

and

Cap.8.

and sufficient drying, and in these moneths se-
venteen dayes; and this hath been done with
one year last past.

The like
Constable
with the
advise of
one Justice
of peace may sell deceitful malt

If any have within a year mingled any Malt
not sufficiently made, or made of mow-burnt or
spired Barley with good Malt, and after put the
same to sale.

20 pence a
quarter

2 & 3

E.6.10

27 El.14

1 Jac.25.12

1a.28

Chandlers

Clothiers

Five

5 pounds by

distress, and

for want

commit-

ment. 3 Ed.6.2 21 Jac.18

If any within a year have sold Malt, till it be
sufficiently and well fanned, trodden, and rub-
bed, so that halfe a peck or more of dust may
come out of a Quarter.

If any have sold or set forth Candles, or other
Works of Wax to sale.

If any Cloth-maker have not set his seal of
Lead to his Cloth, thereby declaring the just
length thereof to be tried by the water. Or have
put in any Flockes, nails, or thrumbs into any
Broad Cloth.

If any have stretched any Cloth above one
yard and a halfe in length, or one quarter of a
yard in breadth, or have put to sale any Cloth
that have shrunk more in the wetting than is a-
foresaid. Or have stretched any narrow Streit or
Kersie above one yard in length, and a quarter
of a yard in breadth, or have put any such to
sale, that have shrunk more in the wetting; or
have put in deceivable stuff into the Cloth.

Deface
them, sell
them, money to the poor 39 El.20.43

If any use any Tenters to stretch their Cloth.

Diers of
cloth.

If any Dier of woollen Cloth have died any
brown Blues, Pewks, Tanies, or Violets, that
were

The Charge for Quarter Sessions. 87

were not perfectly boiled, grained, or madder-
ed upon the Woad; and shot with good Cork,
or Orchall sufficiently. 2 Ed.6.2. Or in dying of
any Cloth, Wooll, Yarn, Grogerain, Buffins, or
silk, or any thing made of woollen Yarn. Or if
any Log-wood or Block-wood with other stuffe
in Dying.

If any person have dyed any Wooll for
Cloth, called Russlets, Marbles, Grays, Bayes, or
such like; or for Hats or Caps, unless it were
perfectly woaded, boiled, and maddered; or
have died with Brazill, to the intent to make a
false Colour in any such Cloth or Wooll; or
have put any Flockes, Chalk, starch, or other de-
ceivable thing upon any Cloth, (except certain
Devonshire and *Cornwall* Streights). For all
these Deceits seem punishable by the Common
Law.

If any have occupied any Iron Cards, or Pi-
cards in rowing of any woollen Cloth; or have
sold any Cloth by any lesse measure than after
the true content thereof, to be met by the
Yard, every Yard being an inch more by the
Rule. If any sell any Cloth being pressed, to be
occupied and worn in the Realm.

If any presse any kinde of Cloth with the hot
presse, or in any deceivable manner, but onely
with the cold presse. 5 & 6 Ed.6.6. Or if any
use any other deceit in making Cloth contrary
to 4 Jac.2. 21 Jac.18. or any other Statute.

If any have used any racking, beating, or
casting of any deceitful Liquour or other mean,
with any kinde of Linnen Cloth, whereby the
same becomes deceitfull.

No Cooper may make any Vessell for Beer or
Ale

Cap.8.
20 shillings
20 pounds
and pillory
39 El.11.23
5 Eliz.9
Dyers of
wooll
40 shill a
Cloth or
Wooll to
make a
cloth
20 shill
40 shill
5 Ed.6.2
Iron cards
&c. lose
them all, &c
20 shill
6 sh 4 d for
every yard
loss of cloth
or the value
3 & 4 El.6
2. 6 H.8
loss of it, &
the value of
it, 1
5 & 6 Ed 6
Linnen
cloth, lose
cloth, impr-
one month
Fine
1 Eliz.18
Cooper

Cap. 8.

23 H. 8. 4

3 Hill 4 1

for every

barrell,

kilderkin

and Firkin

Ale to be sold but according to the Measures appointed, unlesse he set a mark upon him how much it is.

And they must sell them at such prizes as the Justices of the Peace at their Quarter Sessions after *Easter* shall set down and proclaim.

8 Eliz. 9

Prices

13 R. 2. 8

23 Ed 3. 6

21 Jac 2. 2

5 Eliz. 5. 27

If Butchers, Fish-mongers, Inholders, Tipplers, Brewers, Bakers, Poulterers, and other Victuallers do not sell at reasonable Prices, having respect to the prices they buy.

27 Eliz. 1. 1 28 H. 8. 14 37 H. 8. 13 34 H. 8. 7

If any sell Wine in gross or by Retail, above the prices set by the Lord Chancellor, Treasurer, and others appointed to set it, and declared by the Kings Proclamation, if any be.

If any Brewer or Victualler take more for their Commodities than the Prices the Justices of Peace do set down.

25 H. 8. 2

13 R. 2. 8

Inholder
and hostler

1 offence

fine

2 offence

imprison-

ment one

month

without

bail,

3 offence

pillory

without

money,

21 Jac 2. 1

If any Inholder or Hostler take any thing for Litter, or take excessively (that is) more than a reasonable gain, having respect to the Markets for hay, horse, bread, or any kinde of Provision for man or beast. Or if he living in a great Town or Village, being a throughfare, wherein is a common Baker, that hath been seven years at the Occupation dwelling, make his horse bread himself; otherwise he may make it himself: but whoever make it, he must make it of due Affize and weight.

Crows

The increase of Choughs, Crows, and Rooks, tends to scarcity, and raising of prices. Every

man

The Charge for Quarter Sessions.

89

Cap. 8.

man that hath land in the countrey is to do his endeavour to destroy them. Any man with license of the Owner of the ground may destroy them, and then carry them away. If any Occu-

24 H 8.10

pier of a manour, house, or land of five pounds a year value refuse to pay for the taking of them upon his ground.

To prevent which evil in Traffique, you are to inquire, 1. If any Victuallers have conspired that they will sell their Commodities but at certain prices; if it be done by a Corporation or Companie, they lose their Libertie.

Conspiracy of Victuallers, &c
1 offence
10 pounds
2 offence
& 3 Ed. 6. 15

twenty pounds, 3 offences 40 pounds, &

2. If any man do at once keep above two thousand sheep of all sorts, contrary to the Statute of 25 H. 8. 13. for the getting of so much of one thing into one hand tender to the enhancing of prices.

Ingrossing commodities

3. If any buy or agree for any thing coming towards a Fair, Market, or great Town; or move the Seller to raise the price; or doth dissuade him from bringing in the Commodities to be sold in those places, this is Fore-stalling.

Fore-stalling

4. If one buy up Commodities, as Corne, Wine, Butter, Cheese, Fish, Candles, Tallow, Sheep, Lambs, Calves, Swine, Pigs, Geese, Capons, Hens, Chickens, Pigeons, Conies, or other dead Victuals whatsoever in any Fair or Market, and sell them again there, or in any other place within four miles thereof, this is Regrating.

Regrating

5. If any get by buying or promise taking, otherwise than by demise of Land, or Tithe; any Corn, or Grain, or dead Victuals into his hands,

Ingrossing

Cap. 8.

hands, with intent to sell the same again, this is ingrossing; and these Offence are specially named in the Commission.

But the buying of Barley and Oats (without fore-stalling) to make make Malt and Oat-meal. And such Victuallers of all sorts, as Butchers, filthers, and the like, as buy victuals without fore-stalling, and sell it again by Retail, according to their Trades. The buying of Provision by Inholders and Victuallers and spending of it in their houses. The reserving of Rent Corn on a Lease of Land; the buying of Victuals to victuall a Ship or Fort; the buying of seed Corn, when he doth sell or put to sale as much again; nor the Transportation of Corn from one Port to another by water; nor the buying of Corn, Fish, Butter, or Cheese, by a Badger, so he sell it within a moneth. Nor the buying and selling of Cattle by Drovers (licensed, and not abusing their License) so they sell them fourty miles off.

He that is charged upon these Statutes must be charged within 2 years after the Offence is done.

If any have gotten into his hands, or ingrossed any Oak bark with intent to sel the same again.

If any have within two yeares bought any Oxen, Ronts, Steers, Kine, Heifers, Lambs, Sheep, Goats, or Kids living, and sold them again within five weeks.

If any have forestalled any Hide, or bought any Hide out of the Market or Fair, unlesse it be of such as killed Beasts for their own Provision.

If any out of *London, Westminster, or Southwark*, buy to sell again, butter, or cheese, unlesse he sell it again by retail, and then if it be a bove a a wey of cheese, or barrell of butter, 21 *Fac 22*.

Another

3 & 6

Ed 6. 6

1 *Fac 25*21 *Fac 28*5 *Eliz. 5*31 *Eliz. 5*1 *Fac 22*

Double

value

5 *Ed 6*6 *th 8d*

a hide

1 *Fac 23*

Double va-

lue.

3 & 4 *Ed 6*21 *Fac 22*

The Charge for quarter Sessions.

91

Cap. 8.

Another thing that furthereth scarcity is transportation.

If any have transported any corn, Malt, beer, cheese, or wood, unto any place beyond the Seas, except wheat be at one pound twelve shillings, the quarter, Rye at one pound, Pease and beans at sixteen shillings: barley or Malt at sixteen shillings, or if he have license to do it, and exceed it, he loseth three times as much, and is to be in prison a yeare.

5 Eliz 5
21 Jac 28
3 Jac 11
Transportation owner of the ship forfeit it, if he do know of it, owner of the Corn

lose the value of it. Master and Mariners lose their goods, and imprisonment a yeare.

If any buy or sel by unlawfull weights or measure, that are not like and equall with the Kings Standard. Or if one use double weights in buying and selling, the one to buy with, and the other to sell with; and if any unjust weights or measures be found, they must be burnt.

Weights and measures Forfeit and burn the weights, &c Fined in discretion, above 6 shil,

8 d. for the first offence, for the second 13 s. 4 d. for the third 20 s. and pillory 11 H. 7. 4

The tunne of wine must be 252 gallons, the But of Malmsey 126 gallons, the Pipe 126 gallons, the tertian or Poncheon 84 gallons, the hoghead 63 gallons, the Tercer 41 gallons, the half Hoghead 31 gallons, and half and the Roundlet 15 gallons and half So also of the measures of oyl, and none may sell under this in measure, nor till their vessels be gawged by the Kings Gawger.

28 H. 8. 14
R 3 13

Millard.

If any Millard take excessive Toll, he is to have the twentieth, or twenty fourth grain, according to the strength of the water, and custom of the place, if it be reasonable.

The Millards Toll dish must be according to the Standard.

For

Cap. 8.

For the better understanding of this matter, these things are to be known. 1. That in the principall or Shire Town of every County there ought to be a Standard of Brasse for weights, and measures, according to the Standard of the Exchequer, there to remain with the chief officers of the Town, according to which every City, Burrough, and market Town in the County, ought to make their common weights, and measures, to be marked by him that keepeth the Standard. 2. In every City, Burrough, and Market town there ought to be a comon Ballance, and a common Bushell, and common weights sealed, and according to the Standard in the Shire town. 3. No man within any City or market town, ought to buy or sel with any weights or measures except they be sealed as aforesaid, nor ought of Market Townes, except their weights and measures be equall with the Standard. if they must not be sealed, for so some think they must be. 4. Ale and Beere must be sold by one and the same measure.

If the common Baker, victualler, Brewer, and Tipler, do not keep the Assise of bread and beer, according to the price of Corn.

If any by himself or other sell wares and buy them again within three months at the same price and know them to be the same. Or take more for any loan, giving day then after the rate of 10 pound for the hundred.

If any Broker have his hand in such a bargain.

If any take above 8 l. per cent. or helps forward in this contract, if it be under 10 pound per cent. it is not punishable, But the interest is lost.

To this we may adde as an appendix thereto, the

11 H. 4. 12
H. 7. 5

10 pound a
City,
5 pound a
Burrough
40 shill. a
market town

27 Ed. 3. 10

11 H. 7. 4

3 H. 6. 5

1 Jac. 9

Viſtaller

51 H. 3. 13

R. 2. 8

W. 1. 1

Treble va-

lue

Fine, Impr.

As an aider
in a p. emu-
ni c.

13 Eliz. 28

37 H. 8. 9

21 Jac. 17

Sec. 21.

the offences concerning Labourers, Servants, and Apprentices, without the help of whose Trades, cannot be upheld. And the offences concerning highwayes, which being impassable, it doth much interrupt the free Trade of the Kingdome.

There are divers Lawes concerning Labourers, and Artificers. and therein also of their relations as Masters and Servants, they may be reduced to these Heads. 1. Some are forbidden to intermeddle with some works, wherein they have not been trained up. 2. they may not make combinations amongst them for the limitation of their work. 3. They must doe their work truly and fully. 4. They may not depart from their work before it be done. So that the Lawes concerning these things have respect to three times. 1. Their coming together. 2. Their continuing together. 3. Their parting asunder. The particulars hereof that you are to be charged with follow.

Labourers
and artifi-
cers

If a Justice of Peace require such persons as are fit to work by day at Harvest, for the preserving thereof, and he refuse.

Impris.
2 dayes and
a night in
the stocks
5 Eliz 4
Impris.
till submis-
sion.

If meet persons required by the Iustices of the Peace, to serve as Apprentices, or otherwise to husbandry, and other Arts, refuse to submit to them.

If any unmarried woman of 12 yeares old, and under 40, being required by two Iustices, to serve by the yeare, week, or day for such wages as they shall think fit, refuse to obey.

The like

If any person married, or unmarried, under 30 yeares of age, having been brought up and required of them to serve in the Trades of cloathing, Wool-weaving, Tucking, Fulling, Clothworking, Shearing, Dying, or in the Trades of a Tailour,

The like
Persons
compellable
to serve

Shoo-

Cap. 8.

Shoomaker, Tanner, Pewterer, Baker, Brewer, Glover, Curler, Smith, Farrier, Currier, Sadler, Spurrier, Turner, Bowyer, Fletcher, Arrowhead-maker, Butcher, Cook, or Miller, and they refuse to obey the order of the Iustices of Peace herein, nor having fourty shillings a yeare in Lands, or fourty pound in goods, or some farm in Tillage, nor being retained before by some other person, refuse so to do.

5 Eliz. 4

Apprentice
10 pound

If any man take upon him to exercise these trades, not having been Apprentice to it seven years.

Misdemeanour of Master and Servants

5 pound
Imprison ten
dayes without
Bail
5 pound

If any man take an Apprentice contrary to Law, Or if any of the tradesmen before named hyre any Servant for lefse timethen one yeare, or abuse his Servant, or give more wages then the Statutes appoint, or take the Servant coming out of anothers Service, without a Testimoniall, or refuse to stand the order of the Iustice of Peace in any matter of difference between him and his Servant, or put away a Servant without a Quarters warning though it be at the end of the tearm, or will not pay the wages assessed at Easter Sessions by the Iustices of Peace.

Ten shil. by
distresse and
sale

5 Jac 6
5 Eliz. 4

If any difference be between a Master and his Servant or Apprentice.

Order

And the Iustice of Peace give order in it, and the Servant or Apprentice refuse to submit to it.

Commitment till he
be bound to
serve
Imprison.

If a Servant promise to serve, and doth not. If the Servant refuse to serve for wages appointed by the Iustices, or do not his work honestly, or promise to do so & do not, as if my Plowman drive my Cattle, or ride my horses to death, or refuse to do his work, or take greater wages then is appointed by the Statute, or if he make an assault

Imprison 21
dayes

or

The Charge for Quarter Sessions.

95

Cap. 8.

Or affray upon his Master or him that hath the oversight of him. If Carders, Weavers, Sorters, or Spinners, imbezzle any Wool or yarne.

Impris, a year or other punishment

ment but life or member, they and their receivers to give satisfaction, or be stocked or whipped, 7 Jac. 7.

If Labourers that work day work, do not so many houres by the day, viz. from March to September from 5 to 7. the rest of the year from day light to day light. Or if any Artificer or Labourer depart before his work be finished.

Impris, a month and 5 pound

If a Servant or Apprentice go away before the end of his tearme without allowance of a lullace of Peace, or depart at the end of his Tearme, not giving to his Master a Quarters warning, or go away at the end of his time into any other parts without a Testimoniall of his Master. Or if any Artificers or Labourers have conspired together, that they will not do any work but at such a Rate, or for such a time, or in such a manner.

Commitment till he serve, unlesse he were with a Justice of p
Impris, till he get it, which if not

done in 11 dayes; to be punished as a vagrant, but this is to be intended of the Servants in Husbandry, and the rest named before 2 Ed. 6. 25.

If the Clothier do not pay his Carder Spinner or other Labourer in good money, or if he deliver excessive weights to his workmen, &c. or the Carder, Weaver or Spinner do not his duty in his Trade, or refuse to pay the wages assessed. 1 Jac. 16.

Clothier, 3 times as much, 6 d. & commitment till payment,

double recompence and commitment till paid, as by distress & sale.

If the Highwayes and Bridges be not repaired, set. 22. and made passable, the places wherein they are defective are to be indicted. Highwayes, Fine 40 s.

If the Constables and Churchwardens do not make Supravisors.

If the Supravisors appointed do not their duty.

G g

Cap. 8:
10s. every
day for plow
12 pence
for a man.
2 and 3 Ph.
& M. 8.
5 Eliz. 13.
16 Eliz. 9
21. H. 8. 5.
Ten Shil and
for other grounds adjoining to the grounds next to the high-ways,
twelve pence for every Rod.

ry. Or the Parishioners with their Men and
Plowes, doe not their work appointed. Or the
Lord of the Soyle doe not enlarge the way from
Market to Market: so that no Bush, Dike, nor
Tree, except great Trees, be within two hun-
dred foot of each side the reof. Or the owners
of the ground adjoining, doe not scoure, and
and cleanse the Ditches, Trees, and Bushes ad-
joyning.
for other grounds adjoining to the grounds next to the high-ways,
twelve pence for every Rod.

Self. 23.
Drunkards.

And the High-ways by the Statute of Wis-
chiffer ought to be fourty foot in breadth.
The next thing you shall enquire of, is, of
persons of evill Name and Fame.

Barretor.

If any man bee a common Drunkard; or a
common haunter of Ale-houses, especially if he
spend much there, and have little: Or keep a
house of common Bawdry; or usually frequent
such lewd places, or the company of lewd per-
sons, or commit Adultery or Fornication, or
have begotten a Bastard Childe, or be the re-
puted Father of such a Childe; or doe before
the birth thereof (being accused) convey him-
selfe away, or cause the mother after the Birth
to convey her selfe away, and leave the Childe.
Or if one be a Common Barretor, that is, one
that doth commonly stirre, or maintain suits of
Law, or Quarrels in any Courts, or in the Coun-
trey, or be an Eveldropper, that is, one that
doth hearken under Windowes, or the like, to
heare newes, and so tell it abroad, to breed de-
bate amongst neighbours; or if he be a night
walker, that is, one that sleepeth by day, and
walketh by night; or one that doth commonly

goe
He
ed
son
the
Y
cent
hon
the
and
they
niza
T
ness
othe
mur
such
Nati
Trac
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sivel
the S
nuct
Y
If
a con
to the
If th
2. An
Quar
smalle
lawfu
to sit
dayes
for wa
before

goe in Messages for Theeves, or is a common Hedge-breaker, and after he hath been punished for it, doth offend again. All these are persons of evill behaviour, and must give surety for their good behaviour. 3 Cat. 4.
18 Eliz. 3

You are to enquire of all such as having Licenses, doe keep any Ale-houses, or Tipling-house, and be bound by Recognizance against the keeping of unlawfull games in their houses, and for the keeping of good order; whether they have done any thing to break their Recognizances. 5 & 6. Ed 6
25.

The loathsome and odious sinne of Drunkennesse, being the Root and Foundation of many other enormous sinnes, as bloodshed, stabbing, murder, swearing, fornication, adultery, and such like, to the great dishonour of God & our Nation, overthrow of many good Arts and Trades, disabling of divers workmen, and generally impoverishing of many good Subjects, abusively wasting the good Creatures of God (as the Statute speaketh) is a sore evill, and continueth and increaseth still. Drunkennes

You are to take care of the remedy.

If there be any Inne that is disorderly, and a common Nuisance, or more than are needfull, to the hurt of ancient and well-governed Innes. Fine or suppress it
upon an indictment.

If there be, 1. any that sell Ale without License. 2. Any that being licensed, sell lesse than one Quart of the strongest, and two Quarts of the smallest for one peny. 3. If any that sell by unlawfull measures. 4. If the Ale-man suffer any to sit tipling in his house: And by this it is to be 20 shillings by sale of goods after 3 days, none paid, not paid in six dayes whipped. 20 s. to be levied by distress & sale after six dayes. for want of distress commitment till payment. 10 s. to be levied as before.

Cap. 8.

Five shil.

within a

week to be

levied with

In a week

by distresse and sale;

viour.

Three shillings

four pence to be

had as before,

in four

days, or four

houres in the

stocks.

Wine.

5 l. a day.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

Fine.

enquired, whether the Ale-house-keeper have forfeited his Recognizance. 5. If any have within six moneths last been drunk. 6. If any have within this time, sit tripling in the Ale-house having no calling to be there.

1 Jac. 9.

4 Jac. 5.

21 Jac. 7.

4 Car. 5.

7 E. 6. 5

7 E. 6. 5

7 E. 6. 5

7 E. 6. 5

7 E. 6. 5

7 E. 6. 5

7 E. 6. 5

7 E. 6. 5

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7 E. 6. 5

7 E. 6. 5

7 E. 6. 5

7 E. 6. 5

7 E. 6. 5

7 E. 6. 5

For the Inne-keepers offence in all Cases, he is disabled for three yeares for keeping any Ale-house. For selling without License, the second offence is the house of Correction a moneth: the third offence is the house of Correction till he be discharged at Quarter Sessions. If any not having the Grant of the Keepers of the Liberties, sell Wine without License of the Justices at Quarter Sessions.

Self. 24

The next Articles are touching such things which concerne the strength of the Kingdom.

Musters:

40 s. imprisonment ten days.

4 l. imprisonment one moneth, put out of his place.

Impr. without bail till satisfaction.

2 & 5. P. &

M. 2.

3 Ed. 6. 3

3 Ed. 6. 3

3 Ed. 6. 3

3 Ed. 6. 3

3 Ed. 6. 3

3 Ed. 6. 3

3 Ed. 6. 3

3 Ed. 6. 3

3 Ed. 6. 3

3 Ed. 6. 3

3 Ed. 6. 3

3 Ed. 6. 3

3 Ed. 6. 3

If any commanded to muster before them that have authority, have absented themselves without cause, or have not brought their best Furniture and Armes to the Muster; or if any authorized to muster, have taken a reward to spare any; or if any that hath the charge to doe it, doth not pay his Souldiers wages, Conduct or Coat-money. Or if any Captain for gain license his Souldiers to depart, or demand or take more money than his due; or if any doe willingly purloine or doe away any Horse or Harnesse delivered to him, or wherewith he was set forth, and cannot shew how he did lose it.

Archery.

The use of Shooting in the Long bow, (said to be in the Statute of 33 H. 8. 6. the surety, safe-guard,

The Charge for Quarter Sessions. 99

gard, and continuall defence of this Realm, and an inestimable dread and terror to the enemies of the same) is to be inforced. You are therefore to see that the Bowyer out of London, Westminster, and Southwarke, that makes a Bow of Ewe, must make foure of other wood.

That every one have Bowes and Arrowes according to the Statute of 33. H. 8. 9. That is, every one from seven to seventeen, his Bow and two Arrowes; and from seventeen to sixtie yeares old, his Bow and foure Arrowes.

That they doe use them, and exercise themselves and their children in shooting. That one under 24 yeares old, that doth not shoot at a standing prick, or being above, that doth not shoot any mark under two hundred and twenty yards with any prick-shaft or flight.

That no stranger use this exercise, or convey away these Weapons without the Kings license, 33 H. 8. 9.

And to see that every Tything have their Burs, and to present the defaults. And the better to hold them to this exercise, to restraints them from other exercises which are prohibited. You are therefore to enquire.

If any one keep in his house, or carry any Hand-gun, not a yard in the stock and Gun, or any Hagbut or Demi-hawke nor three quarters of yard in the stock and Gun; or (not having in his wives or his own right an hundred pounds a yeare) carry or have in his journey any Crosse-bow bent, or Hand-gun, or Hagbut, or Demi-hawk charged with powder, &c. except in time of warre, or by himsele or servant shoot in such a Gun at any thing but a bank, or for defence of him-

Cap. 8.
33 H. 8. 9.
8 Eliz. 10.
3 Car. 4.

6 s. 8 d. every moneth in default. Masters and parents to pay for children & servants. Imprisonment till fine Buts 20 s. a moneth.

Gunnes Ten pound to be estreated in the Exchequer Imprisonment till payment.

Cap. 8. himselfe or his house within, or within a quarter of a mile of a Cirie or a Market Town, unlesse he be one licensed to kill Hawkes-mear; or within five miles of the Sea.

Ten pound Or if any under the degree of a Lord of the
Parliament, shoot in any Hand-gun within any
City or Town, at any Fowle or other Mark, up-
on any Church, House, or Dove-cote, or any
other place, with any hail-shot or more pellets
than one at one time, or at any Pheasants, Par-
tridges, &c. And yet publick Officers for the
execution of Justice, may carry and use
Guns.

33 H.8. 6 on any Church, House, or Dove-cote, or any
2 & 3 Ed.6 other place, with any hail-shot or more pellets
24. than one at one time, or at any Pheasants, Par-
23 Eliz. 10 tridges,&c. And yet publick Officers for the
1 Jac.27 execution of Justice, may carry and use
Guns.

Concerning matters of pleasure.

May-poles If any May-poles be set up or continued, the
Ord 6. Apr. Parish is, or the Officers are to forfeit 5 shillings
1642. a week till it be taken down.

Hawking, If any one have hawked or hunted with his
hunting, Spaniels in any other mans grounds, where any
killing of eared or codded Corne hath been stand-
Hares, ing or growing, before it hath been put in
Pheasants, shockes, without the consent of the owner of the
& the like. ground: Or hawk between the first of *July* and
40 shillings

Comitment 3 moneths, or pay 40 s. for every hawking, & 20 s. 2

Pheasant or heire of an Esquire) have kept a Grey-hound or a Partridge, setting-dogge: Or have with any Gun, Bow, or 7 Jac. 11 Net, or otherwise, killed or taken Pheasant, Par. Imprison- ment till 40 s. paid, 1 Jac. 27. Imprisonment till 20 s. be paid, For Pheasant ten shillings, for Partridge five, be bound not to do so again. Commitment, 3 months, unless he pay the money forthwith to the Church-wardens. Or after one moneths commitment to give the Recognizance of 20 l. not to doe so again.

If any one have hawked or hunted with his Spaniels in any other mans grounds, where any eared or coddled Corne hath been standing or growing, before it hath been put in shockes, without the consent of the owner of the ground: Or hawk between the first of *July* and last of *August*: Or (not having ten pounds in his own or wives right in Fee, or thirty pounds a yeare for life, above all charges, or two hundred pounds in goods, or not being the sonne of Knight, or greater person, or sonne and heire of an Esquire) have kept a Grey-hound or setting-dogge: Or have with any Gun, Bow, or Net, or otherwise, killed or taken Pheasant, Partridge, or any other Game, he shall be imprisoned, and be paid, For every such offence, *1* *l.* *2* *s.* *7* *d.* Imprisonment till 20 *s.* be paid, For every such offence, *1* *l.* *2* *s.* *7* *d.* For Partridge five, be bound not to do so againe for 12 months, unless he pay the money forthwith to the Churchwarden, after one moneths commitment to give the Recognizance, not to doe so againe.

tridge

The Charge for Quarter Sessions.

101

Cap. 8.

tridge, House-dove, Pigeon, Hearn, Mallard, Duck, Wigeon, Growth, Heath-cock, or any such fowle, or kill or take Hare with Hare-pipes or otherwise, or kill or trace any Hare in the Snow, or kill any Partridge or Pheasant between July 1., and August 31. or take or spoile out of, or in the nest, the egges of any Pheasant, Partridge, Swan, or wild-fowle used to be eaten, but he that hath fourty pounds in Fee, or Free-hold, or fourscore pounds in Leafe, or is worth in goods foure hundred pounds: or his servants may take Pheasants or Partridges in the day time in his own grounds between *Michaelmas* and *Christmas*.

If any destroy the Head of any Pond, and take away the Fish, or hunt in any Warren, or Parke inclosed, and take away or spoile the game, or take away Hawkes or their Egges.

If one use any Guns, or Bowes, or kill Deere or Conies, or keep Hayes and Purse-nets, Ferrets or Cony-dogges, unlesse he have fourty pounds inheritance *per annum*, or is worth two hundred pounds in goods, or have Warren or grounds inclosed, the profit whereof is worth fourty pounds *per annum*. But he that hath an hundred pounds a yeare, may keep them for his own use.

If any for his private gaine, keep a House or place of unlawfull games, as Boules, Coits, Cloysh Kailes, half-boules; Tennis, Dicing, Tables, Carding, Logate, Shove-groat, casting the stone, Kailes, Hand-ball, Foot-ball, Clash, quick-board, or any other unlawfull game now invented, or hereafter to be invented, Bear-baiting, Bull-baiting, stage-playes, 1 Car. 1.

Imprisonment two moneths.
Treble damages.

Good behaviour, 7 yeares Surety for it.

1 Jac. 27
7 Jac. 11
23 Eliz. 10
25 H. 8. 11
14 H. 8. 10
11 H. 7. 17.
5 Eliz. 21.

Unlawfull games.

40 s. a day
12 R. 2, 6
11 H. 4, 4
17 Ed. 3, 4
33 H. 8, 9

Gg 4

If

Cap. 8.

6 shill 4 d
a time

If any use or haunt such a House, and there playeth at any one of these games. Some think all games, except shooting, are unlawfull.

20 sh a time

If any Artificers, Craftsman of any Handycraft, Husband-men, Labourers, Mariners, Fishermen, Water-men, Apprentices, Servant at Husbandry, Journey-men, or servant of Artificer, Mariners, fishermen, or watermen, or any Serving-man, play in any place at any such game out of *Christma* only, and in their Houses, or Servants in their Masters Houses, and by their Masters license, or Serving-men within the precincts of their Masters houses, and by their Masters license.

6 sh 8 d
a time

If any person play at Bowls in an open place out of his Garden or Orchard.

Any Justice of the Peace may enter into the places they suspect to keep such houses, or where men play at such Games: and finding it, may imprison the Keeper of the place till he give Surety no longer so to do: and he may imprison the Gamesters without Bail, till he be bound in such summe as he shall think fit, not to play again.

Sect. 25.
Poor

The Articles concerning the Poor follow.

The Poor are to be provided for. And for this you are to enquire, If the Over-seers and Church-wardens do their duty in taking care for them according to the Statute of 43 *Eliz.* 2. And if Parents or Children that are able do relieve their impotent Parents, or Children according to the Justices of Peace Order at the Quarter Sessions.

To be punished as
incorrigible

Rogues, to be sent to Bridewell till security to save the Parish. 7 *Ja. 1*

The Charge for Quarter Sessions. 103

Chap. 8.

If any refuse Apprentices being put upon them by the Over-seers, Church-wardens, and Justices of Peace.

To this head we may reduce the Law against Cottages and Inmates, being made for the prevention of the increase of the Poor.

If any build up any new house, or convert any old house not before a dwelling house, to a Cottage, and do not lay four Acres of Land near adjoyning to it, to be perpetually used with it : or if any do continue such an unlawfull house so built for one moneth : but Cottages in Market Townes, or about Mines or Quarrs, or where Brick or Tile is made, not being above a mile from the Workes, and used to that end : or for a common Heards-man, or Keeper, or Shepherd, or built by the Order of Sessions, are not forbidden. The building or conversion must be after this Statute. But if an ancient Cottage wholly be decayed and reedified, this is the offence.

Cottage
ten pounds
erecing.
fourty shill
continuing

31 Eliz. 7

If any take in any Inmate more than one household into a Cottage : or if any do continue such an Inmate for one moneth. But such as are so placed by Order of Sessions with leave of the Lord, and by the Charge of the Parish, are not forbidden by the Statute. Herein know, No man is to be accounted an Inmate or Under-fitter, but he that is in a Cottage. 2. Such Cottages as were before the Statute, as well as those which are after ; and such as have four Acres annexed as well as those which have not, are within this Statute. 3. Inmates within Cities and Burroughs are within this Statute also, as well as others.

Inmates
ten shill

31 El. 7

Cook 2 part Inst. 739.

The

Cap. 8.

Stat. 26

Calves

twenty shill
a moneth
for every
cow or calf

2, 3 Ph. M.
3, 25

Forfeit the
horse
32 H. 8. 13
8 El. 8

Destroying
the spawn
of fish
Burn the
Nets, impr.
a quarter of
a year,
under-con-
servators
have half
the fine up-
on Indite-
ment.

But there must be a year past, ere it can be punished here; for this time is given to the Lect to punish it

The next thing concerneth the preservation and breed of things.

If any (feeding for the most part of the year above one hundred and twenty sheer sheep on his Grounds, that are meet for milch Kine, and wherein no person hath any Common) have not for each sixty such sheep, reared one Calf during the time of his keeping the sheep: or if he feeding on his severall pastures above 20. oxen, Ronts, Steers, Skrubbs, Heifers, or Kine) have not for every ten such Beasts kept one milch Cow; and for every two Kine reared up and weaned yearly one Calfe, except it chance to die. But this Law is not to be extended to the Cattell a man doth spend in his own house. Or one keep stoned Horses upon Commons of two years old and not fourteen handfulls high; and any Horse that is so, any man may seize and have, after he hath called the Constable and three of the Neighbours to measure him. But if a Horse be broken in, or it be a place where no Mares are kept, this is not punishable.

If any between the Nativitie of the Virgin and Saint *Martin* take any Salmons in any River: or take young Salmons in any River between *September 8.* and *November 11.* or at mill-pools between the middest of *April* and *Midsummer*: or have taken or destroyed any Frie of Fish in any Water, or have taken any Fish out of Season, (that is) being Keepers or Shedd-ers: or taken any Pickerell under ten, Salmon under sixteen, Trout under eight, or Barbell un-

der

The Charge for Quarter Sessions. 105

der twelve Inches : or have taken Fish in any Water with a net, whereof every mesh is not two Inches and an half broad, within five miles of the Sea with a Draw-net nor an Inch and half from knot to knot.

Cap.8.
Forfeit the
Net and ten
shill levied
by distress
and sale

But the taking of Fish by angling ; or the taking of Smelts, Loches, Minnows, Binheads, Gudgeons or Eels, where they have been used to be taken, is not prohibited by any Law.

17 R.2.9
Westm 2 48
1 El. 17
14 El. 11
1 Jac. 25

3 Jac. 12 3 Car. 4

If any flesh be dressed or killed in a common victualling house in Lent, within one year last past.

Lent
Seize it,
and give it
to the poor.

If men without license eat flesh on the dayes appointed for fish (whereof *Wednesday* is none) within one year last past.

20 shill
1 moneths
Imprison-
ment with-
out bail.

If any in whose house it is eaten doth not disclose it to him that hath power to punish it.

13 sh 4 d

1 Jac 29 3 Car. 4 5 El. 5 27 Eliz. 7

There are certain offences and certain Laws that do make them so, which because we do not finde they do at all belong to the Consuance of this Court, albeit some of them have been usually given in Charge, there we do purposely pass over ; of this sort are the Statutes of Maintenance and Champerty. 32 H. 8. 9. Of Sheriffs. 1 Ed. 4. 2. 4 Ed. 3. 10. Of the Clerk of the Market. 13 R. 2. 4. Of Coopers. 23 H. 8. 4. 31 Eliz. 8. Of woollen yarn. 7 Ed. 4. 3. Of Cloth. 43 El. 10. 27 H. 8. 12. Of Servants wawing their dead masters goods. 33 H. 6. 1 4 Jac. 2. Of Bows. 12 Ed. 4. 2. 1 R. 3 13. For selling of cattel. 3 & 4 Ed. 6. 19 Of bringing in forreigne Wares. 5 Eliz. 7. Of prices

Self. 27

Cap. 9.

prices of Bowes. 8 *Eliz.* 10. Of forging of Deeds. 5 *Eliz.* 14. And some others.

The last thing we shall minde you of is, touching Presentments, that in those you make, you do set down a Certaintie of the persons presented with the time and place and manner of the fact : otherwise let the matter be what it will for which you do present any man, your Presentment may become void, and of little or no effect, for defect in the manner of making it, and setting it down will make it void.

C H A P. IX.

Of their Proceeding in these Courts.

Sec. 1

The manner and order of proceeding in these Courts, for the convicting and punishing of offenders.

Supremacy

church

Wines

Gilding

THe manner and order of proceeding in the Generall Quarter Sessions, and in a Speciall and parti cular Sessions, is for the most part one, and in most Cases after one way, for their power by the Commission is alike in all Offences by the Common Law : but their power by Acts of Parliament is after a divers manner : for some Statutes run thus ; That they shall enquire onely ; see 23 *Eliz.* 1, 2, 3. 1 *Eliz.* 23. 5 *Eliz.* 1. 13 *Eliz.* 3. Touching Offences about acknowledging the Kings Supremacy, the Service of God, coming to Church, or establishment of Religion, and others.

Some that they shall enquire and punish.

Some that they shall enquire and determine, 2 *H* 6. 14. About Wines. 8 *H* 5. 3. About gilding and the fineness of Silver.

Some

Of their Proceeding in these Courts. 107

Cap.9.

Some that they shall hear and determine ; and others enquire, hear, and determine, which are all one. So 2 & 3 Ph. & M.3. About milch Kine. 36 Eliz. 4. About Rogues. 2 & 3 Phil. & M.7. 31 Eliz. 12. About Horses sold and told in Fairs. 5 Eliz. 21. About fishing and hunting in a Parke. 27 Eliz. 12. About under-sheriffs and their Officers. 1 Eliz. 17. About the destroying of the Breed of Fish. 2 & 3 Ed.6. 15. About the Conspiracy of Victuallers, &c. 5 Eliz. 9. About Perjury. 1 Jac. 22. About Tanners, &c. 27 Eliz. 7. About Return of Jurors. 23 Eliz. 10. About Pheasants. 3 Eliz. 3. About Transportation of sheep. 20 H. 6. 19. About Souldiers. 33 H. 8. 9. About Archery. 23 H. 6. 10. About Sheriffs. 13 R. 2. 8. About Victuallers. 1 H. 8. 7. About Coroners. 11 H. 7. 8. About Weights. 28 H. 8. 14. About Wine. 1 & 2 Phil. & Mar. 5. About Transpotation of Corn and Provision.

Milch king
Rogues
Horses
Fishing
Officers
Breed of
fish
Conspiracy
of Victual-
lers
Perjury
Tanners
Return of
Jurors
Pheasants
Transporta-
tion
Souldiers
Archery
Sheriffs

Victuallers, Coroners, Weights, Wine, Transportation.

Some thinke that they shall hear and deter- mine by Inquisition, Presentment, Bill, or In- formation, before them, and Examination of two lawfull Witnesses, or by any of these wayes according to their discretion, &c. So are 5 & 6 Ed. 6. 14. 5 Eliz. 12. About Ingrossers, to this ef- fect is. 2 & 3 Ed. 6. 10. About Malt. 5 Eliz. 5. About Fish.

Ingrossers
Malt
Fish

Some run thus, That they shall examine, hear and determine every such Default [or every such Forfeiture] upon Presentment thereof had before them in the Sessions, &c. So 12 Ed. 4. 9. About an Escheator. And to punish the Of- fender by Imprisonment, or otherwise accord- ing to their discretion, &c. So is 28 H. 8. 14. About Wines.

Wines
Some

Cap. 9.

Tanners

Some that they shall hear and determine, &c. And also by their discretion examine all persons suspect to offend this Act. 1 *Iac.* 22. About Tanners.

Tile

Some thus, That they shall hear and determine by their discretion as well by Examination as otherwise the defaults, &c. So is 17 *Ed.* 4. 4. About making of Tile.

Weights

Some that they shall by Examination or Enquiry hear and determine, and set fine according to their discretion, &c. So 11 *H.* 7. 4. About Weights.

Stone
horses

Or thus, shall enquire and determine as well by Presentment as Examination. 1 *H.* 8. 7.

Or thus, that Justices and Stewards of Leets shall enquire, and the Presentment in the Leet shall be certified to the next Quarter Sessions. And the Justices shall hear and determine every such Presentment before themselves or steward by Examination, or otherwise. 33 *H.* 8. 13. About stoned Horses.

Tokens

Others thus, that they being convict by Witnesses, or Confession taken before the Justices of Peace in their Generall Sessions shall suffer any Corporall punishment but death, as they shall appoint. And that they shall call by Process or otherwise to Sessions the persons suspect, or commit them to Ward, or upon Bail till the next Sessions. So is 33 *H.* 8. 1. About false Tokens.

Salmons

Others thus, That the Justices of Peace when they may attend, survey the offences against this Statute. And if they finde any, shall make due punishment thereof according to the Contents of this Statute. So is 17 *R.* 2. 9. About Salmons.

Others

of their proceeding in these Courts. 109

Cap. 9.

Others thus, upon pain to be grievously punished, according to the Iustices discretion, they shall judgethem to the same bodily punishment, as the offence requireth. And shall do execution thereof, 13. R. 2 8.

Others thus, that they upon the party grieved his complaint, shall make out Proceffe against the Sherif, &c. as in an Action of Trespasse to appear before them to answer the matter, See 11 H. 7. 15. about Sheriffes.

Sheriffes.

Others thus, that they shall at their Sessions Iudic and try the offenders by the usuall course of trials and indictments in like cases, See 39 Eliz. 11.

Others thus, that the Sheriffe shall certifie all Indictments taken before him, in his turn to the Iustices of Peace. And they shall proceed as if they were taken before themselves, &c.

Or thus, that the Iustices shall charge them that appear before them, that they duly enquire and put in execution the effect of the premisses in due time, So that this Act may be fully executed, 24. H. 8: 10.

Others thus, that they shall examine the trespassers in this case, and do execution of them that be found faulty by Inquest or by examination to be made by the Iudges in manner aforesaid. See 8. H. 6. 5. about Woollen yarn.

Woollen
yarn.

Others thus, that they in their Sessions may enquire by the oath of 12 men of these offences, and their Presentment shall be of the same force, as those in the Kings Bench are; see 7 Ed. 6. 5. about wines.

Wines.

Others thus, that these offences be enquired, and presented before the Iustices of Peace, in their

Cap. 9.

Drunken-
ness.

Pheasants.

Sheep.

Sec. 2.

Inquisition
See above, ch
5. Sec. 4.
Forcible en-
try.

Examine.

Enquiry.

their Quarter Sessions, and thereupon such due proceeding shall be against the offender as in such cases, by the Lawes of the Realm, is used, 4 Jac. 5. about Drunkenness.

Others thus, that the Iustices in their Quarter Sessions, or any two or more out of the Sessions, shall heare, punish and determine, See 1 Jac. 1. 2. about Pheasants.

Others thus, that they shall enquire by Oath of twelve men, or by Information; and make such like Proceffe upon Presentment, or Information as they use to do upon Presentment of Trespasse, 25. H. 8. 13. about keeping sheep.

Some thus for felonies. That the Iustices, having power to determine felonies, shall heare such offences, & execute the offenders. Or thus, they shall be punished as other felons, or suffer death as other felons by the Law, 39 Eliz. 17. 8. Eliz. 8. 1. & 2. Ph. & Ma. 4. 21. H. 8. 7. 1. Ja. 3. 1.

For the opening of which, these rules must be taken notice of.

1. One Iustice of Peace cannot take an Inquisition of a Statute, unless the Statute doth specially enable him to it, as in case of a forcible entry, &c.

2. Where the Statute giveth power to examine onely, it seemeth this includeth Oyer and Terminer. And though it say not what person it shall examine, yet it seems they may examine parties as well as witnesses, Dalt. J. P. 191.

3. Where a Statute doth enable the Iustices onely to enquire, there in some cases they are to take an enquiry, and certifie it to some higher Court, as in case of some great offences, as in 1 Eliz. 23. and others. But it is not alwayes taken

of their proceeding in their Courts. 111

in this sense, for it doth sometimes imply *Oyer* and *Terminer*. Cap. 9.

4. Where the Statute doth enable them to hear and determine an offence, this doth comprehend all the necessary wayes, and meanes of doing of it, as information, hearing, Presentment, granting Proccesse, giving Iudgement and execution, and therefore that the addition of these things are superfluous, and this is the largest power of all. But in this case it is held, it must be in one of their Sessions, and in the ordinary way of triall, and that the Iustices cannot do it out of the Sessions, *Dalt. I. P. fol. 193.*

*Oyer and
Terminer,*

Sessions,

5. Where the matter is to be tryed by witnesses onely, there it seems two witnesses are requisite; but if it be to be tryed by Iury, there one witness will serve, and sometimes none, *Plow. 12.*

Witnesses.

6. The Triall by examination of offenders, or witnesses alone without a Iury is not permitted to Iustices of Peace, but in case where the Statute doth either in generall refer the Triall to their discretion, or else they are especially enabled to take examinations, otherwise it must be by Iury.

*Triall by ex-
amination or
Witnesses,*

7. Where a Statute speaks of proof, it shal be taken for proof by witnesses onely, yet some say by a Iury, *Dalt. J. P. fol. 191. Young in his Pracognita.*

Proof.

8. Where the Statute doth enable Iustices to a Triall according to their discretion, there it seems they may take the examination of witnesses upon oath, *Dalt. J. P. 120. 16 Young in his Pracognita, to his book. Dalt. Iust. P. 191 Lamb 535, 536.*

Triall.

9. Where the Statute doth not direct the way of

H h

of

Cap. 11.

Triall.

Indictment.

of Triall, there it must be by the ordinary way of Indictment, according to the Common Law. *Dalt. J. P. 193. 72 Young.*

Sessions.

10. That which may be tried another way one of the Sessions, the Iustices may try by Indictment in the Sessions at their choice.

Oath,

11. When a Statute speaks of examination of witnesses, or other Accusation or proof, though it say not upon oath, yet it seems it must be by Oath. *Dalt. J. P. 192.*

Witnesses,

12. Where the Statute speaks of witnesses, it cannot be with lesse then two, unless the Triall be by Jury, where it may be, one will serve, *Dalt. Just. P. 192.*

CHAP. X.

Sect. 3.

But the whole proceeding in an ordinary way lyeth in three things. 1. In Information. 2. In Hearing or Triall. 3. In giving Iudgement, and doing execution.

CHAP. XI.

Of Information

AS to the matter of Information these things are to be known.

1. That the Iudges of these Courts take knowledge of offences many wayes. As 1. Either by the presentment of some publick Officer, Steward of a Leet, Supravisor of highways, Constable

le, or the like. 2. Or by the Presentment of the Jury. 3. Or by their own view. 4. Or by the information of private persons, so is the common informer. As to the first of these, these things must be known. 1. A steward is to certify to the justices of peace, the defects of stone horses that are in Comrons upon 32 H. 8. 13. A Sheriffe the indictment found before him. A searcher of tyle, defects in tyle making upon 17 Ed. 4. A Constable to certify the defects of execution upon the Statute of Winchester 13 Chap.

Certificate,
a presentment.

Constables, Churchwardens, Headboroughs, Tithingmen, and Alecunners must present upon their oaths all offenders by drunkenness or tipping within 4 Jac. 5. 2. These are not sent to the grand jury to be found by them as indictments, prepared are, but are a perfect information of themselves, to which the party accused must answer.

For the second, these things must be known. The information given by the jury is two ways, by indictment or presentment; how these agree, and differ, and many other things of this subject, see in Lib. 2. 2. That the justices are to receive in this such indictments, as are within their Conscience, and none others. 3. They must ex officio see that they be well drawn for matter and form.

Sec. 4.
Indictment.
Presentment

For the third, these things must be known. A justice of peace of his own view may present the defaults of the Highwayes.

Sec. 5.
Justice of
Peace.
Presentment
of high-
ways.

For the fourth, these things, 1. That any man may inform or give in evidence against these offenders without any danger at all.

Sec. 6.
Common In-
former.

And touching the common Informer, these things must

must be known, 1. None are to use this, but such are allowed upon record. 2. That none be to be admitted to this office, that hath been once turned out of the same by the Court. 3. They may not inform against any man for an offence done beyond the time limited in the statute of 31 *Elix.* 4. He may not inform in any of the Courts of *Westminster*, but must bring his Information in the County where the offence was done. And for this purpose; before his information be received and recorded, he must take his Oath before the Justices of Peace, that the offence was not done in any other County, and that it was done within a year of the time wherein the Information is laid. And this oath must be entered of Record, as *Iac.* 4.

CHAP. XII.]

For the second thing, *Hearing and Trial*. In this are included these things, 1. The calling in of the party. 2. His appearance and defence.

Seß. 1.
Proceße.

For the first, there are Processe to bring in the party in case he stand out, and come not to answer the accusation. And these processe are, 1. in case of indictment, or otherwise, upon indictments of Treason or Felony, the Processe are, 1. a *Capias*, 2 an *Alias Capias*, 3 an *Exigi facias*. Upon Indictments for other offences, not being felony, they are, 1. A *venire facias*. And if thereupon the party be returned sufficient

sufficient, then 2. a *Distringas*, and then Pro-
 cesse Infinite till he come in. But if a *Nihil ha-*
ber be returned at first against him, then 2. a *Ca-*
pias. 3. an *Alias capias*. 4. a *pluries Capias*. 5.
 an *Exigi facias*. Young fol. 133. The procelle
 upon any Indictment or Presentment for an of-
 fence against a Statute, shall be such as the Sta-
 tute doth direct, if it direct any, otherwise the
 ordinary procelle of the Common Law.

There are other Processe, as that by which
 the Sessions is called, *Fiere facias*, and *Capias*
 after judgement for the doing of execution, 5
 & 6. Ed. 6. 14. And in some speciall cases *Elegit*
 See 31 Eliz. 7.

But touching all Processe, these Rules must
 be heeded, 1. No Processe doe usually issue
 forth of this Court, but upon the Inquisition of
 twelve men, or return of a sworn Officer, some
 speciall cases excepted. 2 They are not gran-
 ted upon a bare suggestion, by word or writing.
 3. Nor can any procelle issue forth but *Sedente*
curia. Lamb. ch. 6. 5 Eliz. 12. 5 Ed. 6. 14.
 Sometimes he comes into the Sessions by Re-
 cognizance, being thereby bound to appeare
 there. For all Recognizances that concern the
 Sessions, are to be certified to the next Quarter
 Sessions after they are taken, when and where
 the party is to be called upon them. And if he
 doe appeare, his appearance is to be recorded.
 And the same, or his default of appearance in
 case he doe not appeare, is to be certified. 3 H.
 17. 1. 5 & 6. Ed. 6. 25. Lamb. I. P. 389.

For if a Recognizance bee forfeit by default
 of appearance, or by breach of the Condition,
 the Justices of Peace cannot award any Pro-
 cesse

Recogni-
 zance.

Certificate.

Appearance.

Recogni-
 zance.

Procelle.

Cap. 12. cesse upon it, but must certifie the Recogni-
Certificate. zance and the cause of Forfeiture into some of
 the Courts of Record at *Westminster*, to the end
 that some Procelle may issue out from thence.
Dalt. J. P. 213.

Supersedeas The Party bound shall doe well if hee have a
Supersedeas from above to discharge him, to ap-
 peare with it at the Sessions, and pray an al-
 lowance of it; for it is doubted, whether his
 sending of it be a discharge of his appearance,
Dalt. I P. 173. Lamb. I. P. 113.

Sess. 2. If one be bound to appeare at the Quarter
Appearance Sessions, he must appeare there: If it be at the
Discharge. Sessions, hee may appeare at any Sessions, *Dalt.*
I. P. 237.

Certiorari And if a *Certiorari* come to remove the *Re-*
cognizance into the Chancery, or Kings Bench
 before the day, this will discharge the appea-
 rance, *Dalt. J. P. 237.*

Confession When the party doth come in, he must after
Traverse his appearance, make his defence, either he must
 confesse and submit to the Fine, or traverse the
 charge; and then he is to be bound to prose-
 cute it, unlesse it be tried presently, which must
 be done by a pettit Jury. And this called an
 Arraignment, or Triall. And if they passe for
 the King, and finde him guilty of the offence, or
 he confelleth it, or stand out an outlawrie that
 he be convicted, then are the Justices to give
 judgement, and see execution done according to
 Law.

**Arraign-
ment.**

Conviction.

CHAP. XIII.

117
Cap. 13.

FOr the third thing, giving Judgement and doing execution.

In the giving of Judgement and doing Execution, these things are to be known. *Señ. 1. Judgement*

1 They must adjudge men according to the Law, that is, where the Law appointeth a Corporall punishment, they may not inflict a pecuniary punishment. *Et sic è converso*. And regularly where the Law appointeth one kinde of corporall punishment, or one degree of pecuniary punishment, they may not change it, and inflict another.

2 They have power to inflict corporall punishment, as death, cutting off the parts of the body, burning or marking, imprisoning, whipping, or stocking, or Cucking-stoole. *Señ. 2. Punishment*

3 Pecuniary, as losse of Offices, Lands or Goods, Fines, Iſlues, Amercements.

3 In Fame, as to brand a man that is perjured, that his Testimoniall shall be of no credit afterwards.

CHAP. XIV.

Of Fines and Amercements.

Touching Fines and Amercements these things are to be taken notice of. *Fines and Amercements,*

1 That no Fine or Amercement can be set but *Sedente curia*.

2 All Fines and Amercements that are in their discretion, must be reasonable, having regard

Cap. 14. gard to the offence. 34 Ed. 3. 1.

3 Where a Statute doth appoint a certaine penalty for an offence, there regularly no other can be imposed, nor can the Justices of Peace mitigate it after the party is convicted by confession, or otherwise. But if the party indicted before his conviction come into the Court, and protest his innocency; yet, *quia noluit placitare eum An. Rege*, he put himself to the grace of the Court, the Court may impose a moderate Fine, and by Order forbear the prosecution. And the common practice (it seemes) is, that if an Information or Indictment be against a man for drunkenness, tipling, selling Ale without Licence, swearing, driving Cattell on the Sabbath day, or any other offence against a Law that gives an expresse penalty, if the offender come in and confesse it, and put himselfe upon the mercy of the Court, they doe fine at their discretion: But if he be convict by verdict, or Oath of Witnesses, the Justices of peace cannot discharge him of any part of the forfeiture. And therefore if a man be convict so for selling an hundred measures of Beere under measure, he must pay all the penalty. *Resolved of the Judges temp. Car. R. 10.*

Imprisoned. 4 The party is to be imprisoned till he pay his fine, if it be a fine at Common Law; For to every such fine, imprisonment is incident; yet in this case the Justices may take a Recognizance for payment of it, and deliver the party out of prison. Or they may cause the Clerke of the Peace to make Estreats of all the Fines and Amercements, and transact them into the Exchequer by Indenture, keeping one part to them-

Clerk of the
peace.

Estreats

them
they
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fesse
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ce-
cible
N

themselves. 5. *Eliz.* 4. *Sed quare* whether now *Cap. 15.* they may not require the Sheriffe to levy them. 14. *R.* 2. 11. By which they are to have duplicates indented of the Estreats, and the Sheriffe is to have one part to levie the Fines, &c. by them.

CHAP. XV.

Of a Certiorari.

A Stouthing this thing these matters are Certiorari to be known.

1 A Justice of Peace while he is in Certificate his Office, may certifie the Record into the Kings Bench without a *Certiorare*, but not afterwards.

2 This Writ (being to remove a Record of the Sessions into another Court, for that it cannot be fully heard there, or they have proceeded erroneously) is not to be allowed or obeyed, except it be delivered at Quarter Sessions in open Court; Nor if it be for a Ryot, Forcible Entry, Assault or Battery, untill the party indicted enter into bond of ten pound to the Prosecutor with sureties such as the Justices of Peace there in Court shall think fit, with condition to pay him such reasonable costs and damages as the Justices of Peace in their Sessions shall assesse within a moneth after his conviction, 21. *Jac.* 8. *Lam.* 7. *P.* 108. Otherwise they may proceed to triall. And yet an Indictment or Forcible Detainer may, *Dalt.* 7. *P.* 219, 220.

No Indictment is to be sent immediatly into the

Cap. 16. the Kings Bench by this Writ, but first into the Chancery, and from thence into the Kings Bench by a *Minimus*. *F.N.Bre.* 242. *Lamb.* 591.

4. A *Certiorari* for matters of the Crowne, need not contain the cause of the removing. *Lamb.* *J.P.* 514. 2 In Chancery it is in *Cancellaria*, in the Kings Bench *Nobis mittatur*.

3 It may require the sending of the Record, or the tenor of it. 4 It is to be sent to the Justices. 5 Though it beare date before the Indictment taken, yet it is good enough. 6 If it vary from the Record they may refuse to certify.

7 The Justices may send it, though the party doe not follow it. 8 The certificate must expresse that which did authorize the Justices to make the Record, but need not certify more than the *Certiorari* warranteth, *Lamb.*

J.P. 516. 9 If an Indictment be sent up by a *Certiorari*, the Justices must take care how they certify it, or it may be quashed for an insufficient Return.

Indictment:

CHAP. XVI.

Of an Indictment and Presentment.

Indictment
what.

AN Indictment is a Bill or Declaration formally made, containing an accusation of a man for some offence committed, by a Jury to be found of purpose to put the offender to answer to it. Or it is the verdict of the Jurors, grounded upon the accusation of a third person, the which the Jurors

are

are charged to enquire of. Or it is an accusation found by an inquest of men upon their Oathes. And this sometimes is called a Presentment, which differs little from that, being defined to be an enquiry finding some offence against the King. Or a meer Information or denuntiation of the Jurors themselves, or of some other officers, without the accusation or information of another to the Justices that have power to punish the offence done contrary to the law. *Cook super Lit.* 126, 127. *Stamford.* *Lamb.* 485.

An Information is the accusation of the party offending by a stranger before the Justices of the Peace, for the Kings, or the Kings and his own benefit, to the intent to put the party to answer. Information what.

Appeale is the plaint of one man against another, of purpose to attain him of some offence. Appeale what.

The Indictment or Presentment, is the chiefe ground-work whereupon the whole triall is afterwards to be built. (2)
Generall Rules.

In omni crimine septem sunt consideranda, viz. Causa, Persona, Locus, Tempus, Qualitas, Quantitas, & eventus.

Every Indictment, Presentment, &c. (especially if it concern a mans life) being in the nature of a Declaration for the King against the offender, to which the party must answer, and upon which the Court must judge, must contain verity, certainty, and perspicuity, *Certa debet esse narratio; & certum fundamentum certa res quæ deducitur in judicium.* For an Indictment can-

Cap. 16. cannot be made good by Implication. *Stamf* 96.

The Indictment is to prepare for a Triall. For the Triall it selfe is the issue upon the Indictment.

(3)
Wherein an
Indictment,
Presentment
or Informa-
tion shall be
said to be
good or
not.

Many things are requisite to make a good Indictment, Presentment, or Information.

As that the party indicting, &c. be competent. 2 That the indictment be brought in due time. 3 That the matter be indictable. 4 That the Indictment be for manner and matter substantiall. And if it be defective in any of these particulars, it may be quashed. *Cook* 5. 120, 121.

1. For the
persons by
whom, and
who may be
Indictors or
Informers.

Any honest man may follow an Indictment, and any one that is a competent witnesse, may be a competent Indictor.

But it seemes such persons as are infamous, may not be Indictors. And therefore 11 H. 4. 41. one was discharged of an Indictment because one of his Indictors was out-lawed for felony. *Tong* 116. *Stamf.* 88.

Such as have for misdemeanour in their common informing, been put out by order of the Kings Courts, cannot be an Informer. *Stat.* 31. *Eliz. ch.* 5.

2. For the
person a-
gainst
whom it
is brought,
& who may
be indicted.

Any person may be indicted that lives within the County, or that have lived there, or that have committed an offence therein. And Women, covert Infants, and all such like other persons who may commit an offence against a law, (if they be not excepted in the Law) may be indicted for that offence as well as others. *Cook* 11. 61. *Dier.* 104. 13.

A Justice of Peace may bee indicted at the Sessions

Sessions of his own Connty, before his fellow-Justices. *Lamb. 631.* **Cap. 16.**

The Indictment may bee brought at any time for an offence done against the common Law; but for any offence against the Statute, it must be brought within the time the Statute prescribeth.

3. For the time where in it is brought, and in what time the Indictment, &c. must bee brought.

For some offences it must be brought at the next or second Generall Sessions after the offence being done: as those against the Ordinance of the *Directory*.

For some offences it must be brought within 3 years after the offence done: as the Statute 2 & 3 *Ph. & M. ch. 3.* about keeping Fine, &c. 31 *Eliz. ch. 4.* about Armour. 2 & 3 *Ed. 6. ch. 10.* about Malt-making. 5 *Eliz. 5.* about eating flesh. 33 *H. 8. 6.* about shooting. 7 *Ed. 6. 5.* about Wines. 32 *H. 8. 9.* about Maintenance. 3 *H. 7. 1.* about Inquests for concealment of Felonies.

For other offences it must be brought within two years after the offence done: as Forfeiting, Regrating and Ingrossing against the statute of 5 & 6 *Ed. 6. ch. 14.*

For other offences within 6 months by statute, 5 *Eliz. ch. 15.* about Prophecie. *Stat. 4. Jac. ch. 5.* about Drunkards, 5 *Eliz. 5.* about Fish by the Informer, 33 *H. 8. 6.* about shooting by the Informer.

All Actions, Indictments, and Informations, where the forfeiture is given to the King alone, shall be brought within two years after the offence done. And all Actions, &c. but the Statute of Tillage, where the Forfeiture is given to the King, and another must be brought within one

Cap. 16. one year after the offence done. *Stat. 31 Eliz. ch. 5* Or in default of that for the King within two years; for shooting, for the King within a year: and such as are brought after this time are void. But where the Statute by which the offence is made doth limit a shorter time, there it must be brought within that time. *33 H. 8. 6.*

And therefore one being indicted for not baptizing his Childe, and it appeared the offence was three years before. The Court stayed the Indictment. *Mich. 7 Jac. Stoners Case.*

An Indictment brought in one Kings time, is good and will serve in any another Kings time. *Brook Indictment 44*

4 For the place of the offence, and in what place it may or must be said to be.

An Indictment, Presentment, &c. generally must be laid to be in a place certain for the venue. And it must be there brought and preferred where the offence is done. *Stat. 1 R. 3. 2.*

If it be upon a penal Law, it must be laid to be done there where in truth it was done, else the Defendant shall be found not guilty.

But Informations against Popish Recusants for not coming to Church. For Maintenance, Champerty, and some others may be alleadged to be in any County. *See the Statute 21 Jac. c. 4.*

If one be stricken in in one County, and die of that stroke in another County, he may be indicted in the County where the death is. *Stat. 2 & 3 Ed. 6. c. 24. Lamb. 493.* And it seems the two Counties, unlesse London be one of them, may joyn in this Case. *Brook in Diet. 45. 31. 26.*

If a Felony be done in one County, and a man become Accessary thereto in another County, the Indictment against the Accessary may be good in the County where he became Accessary. *Lamb. I. P. 493. Young 120.* If

If one be robbed by the High-way in *Middlesex*, and apprehend the Thief (having the Goods about him) in *Essex*, he may be indicted for this Felony in *Essex*, but not for the Robbery there, for it is no Robbery but in that County. But is Felony where ever he hath the Goods. *Lamb. 496. Young 120*

One was indicted *Banco Regis* in *Middlesex* for that he at B in the County of *Middlesex* did procure I S to kill I B, whereby he killed him at S in the County of *Berks*, and it seems it is good. *9 Ed. 4. 48*

In Informations, the very County wherein the thing was done must be exprest, except it be for Champerty, buying of Titles, Extortion, or for matter of corrupt Usury, or for ingrossing or regrating, where the penalty appears to be twenty pounds or above, and in some other Cases which may be laid in any County, as please the Informer. *Stat. 31 Eliz. chap. 5 Poulton de pace 165, 166* And all Suits grounded on 33 H. 8. c. 9 touching unlawfull Games, and Bowes and Arrows. *5 Eliz. ch. 5* For using any Trade which one hath not been brought up in, shall be heard and determined at the Assizes or Quarter Sessions of the County wherein it was done, or the Leet within which they happen not elsewhere.

A man may be indicted in this Court for any Felony, for any Trespass, for any wrong done by fraud or force, for any offence against a Statute Law, the Contumace whereof is referred to the Justices of Peace. And therefore upon any offence against any Article of the Charge; as for Extortion, Escapes, Rescues of persons and Goods,

For the things for which a man is indicted, and for what causes an Indictment lieth,

Cap. 16.

Goods, unlawfull Distresses, with-holding of Treasure trove from the King, for conveying away men from the Justice of the Law, for hiding and keeping away an Apprentice from his Master, for Popish Recusants. 3 Jac. c. 4 For concealment of Felonies in Inquests. Stat. 3 H. 7. 1

But an Indictment in this Court is not good for the taking of such things which are *feræ naturæ*, as Deer, Hare, Partridge, Pheasants, unless they be made tame, or taken out of a Park, for they are not valuable. 8 Ed. 4. 5 Nor for Treason. Nor for breaking a Recognizance of the good behaviour. 8 Car. B. R. Cook 4 part Inst. 18. Nor for inclosing Commons. Brook Indictment in toto. For the remedy upon the Forfeiture of a Recognizance is by *Scire facias*, and not by Indictment. Cook 4 part of his Inst. f. 181. Yet see Stat. 5 & 6 Ed. 6. 25

6 For the manner and form, and when it shall be said to be formal or not.
1. In Latin.
2. What in Latin.

All Indictments must be entred and enrolled in *Latin*, and if they be *English* they are naught. 35 Ed. 3. c. 15 But if there be *Latin* and it be *Englished* it will not hurt. And if it be ill *Englished*, if it be well in *Latin*, as *Pro ducent modis avenarum, Anglice* two hundred Bushels without more; this is good, for *Anglice* is superfluous. And surplusage never hurteth, unless it be repugnant to the matter before or after. As if it should be *tempore murdri predicti*, and it be *tempore felonice et murdred predicti*. this is good enough, for (*murdred*) is a word insensible and vain. Cook 1. 42, 45

But false *Latin* in words of art that are words significant and allowed by Law, as *Misfugium, Tostum, Murdred, Burglariter, Felonice*, &c. of

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Incongruous *Latin*, as *niginti* for *viginti*, *septin-*
ginti for *septinginta*, *prafata Regi* for *prafata*, &c.
Or borrowed words that have a resemblance
and propinquity to true *Latin*, as *velvetum* for
velvet, *operimentum* for a Rag, these are good.
Cook 5.121

And yet insensible words, especially in places
material, as in words of Art, as *murdred* for *mur-*
der, *burgariter* for *burglariter*, *feloniter* for
felonice, these and such like, except they be in
places superfluous, make the Indictment void.
Cook 4.59.42.5.121.133

Howbeit some think these things being onely
the faults of the Clerks are amendable:

An Indictment was for not amending two
Cribs by the words *duo gurgita*, adjudged void
and qualified. *Glouc. Sess. 17 Car.*

In an Indictment of Treason, the word *proditorie*
must not be omitted. So in an Indictment
of Felony, petit Larceny, or Maihm the word
felonice. In an Indictment of Murder *murdra-*
viti, which is sufficient without saying *ex malitia*
præcogitata. In an Indictment of Burglary,
burghlariter, or *burglariter*, or *burgulariter*.
In an Indictment of Piracy *pyratice*. In an In-
dictment of Rape, *rapuit*. In an Indictment of
Riot, *riotose*. *Poulton de pace 25 27 H. 8. 27*
Cook 4.41 Stam. 94 9 Ed. 4 26 Dier 99. 216.
304 For scarce any other words will supply
these, and therefore to say *Quod A fregit do-*
mm mansionalem de B in nocte, is not good for
Burglary. And yet to say, *fregit, &c. ea intentione*
ad feloniam sive murdrum faciendum is held to
be good. So if it be *Quod A occidit B ex malitia*
præcogitata & voluntarie, or *felonice*, this is not

Cap. 16.

good to charge for Murder, though happily it may be good for man-slaughter. So if *Quod A felonice cepit B et eam carnaliter cognovit* is not good for Rape. So *furatus est*, or *rapuit et furatus est* without *felonice* is not good. So to say, A took B into the cold, whereof he died, without *felonice* is not good. So to say in an Indictment for a Riot, instead of *riose, rouse et illicite* was judged void. *M. 7 Fa. B. R.*

To say in an Indictment *Felonice abduxit* without *Cepit*, or *Cepit* without *Abduxit*, is not good, but it must be *Cepit & abduxit*, or *assortavit*. So to say, *Quod A. burglariter fregit ecclesiam in nocte ad depredandum bona parochianorum in eadem existen.* was judged void.

In forcible Entry on the Statute. *8 H. 6. 4.* It must be *manu forti* or *cum multitudine gentium*, or it is not good.

The Indictment was not *manu forti disseisvit*, but *vi armata*, and it was agreed to be naught. *M. 7. Fac. R. B. in Shellitons Case.*

In the Indictment upon the *8 H. 6. chap. 9.* it was said, That he against whom the Bill is preferred *disseisvit* him that preferred the Bill with force and Arms, *viz. Gladiis, &c.* omitting *manu forti expulit*, and it was adjudged good.

If one be indicted as accessory to a Burglary, the Indictment must say *malitiose*. *Dier. 99. 304. Lamb. J. P. 50. Poultion de pace 25. 27 H. 3. 27. 9 Ed. 4. 26, 29. Dier 69. 216. Plow. 474. Cook 4. 41. Stam. 94. Cook 4. 39. 8 Ed. 4. 10. Cook upon Littl. 127 Dier 189.* But those Indictments may be good for Trespas, or some other offence that have these defects in them.

Vi & armis.

The omission of these words *vi & armis*

ulz. baculis, catellis, armis et sagittis, or the like words in Indictments of forcible Entry, or other Indictments do not make them vitious. But it is good to insert them for aggravation: yet if they be omitted in an Indictment of Felony, it seems it is otherwise, for in *M. 17 Jac. B.R.* An Indictment for petit Larceny was quashed for lack of these words: yet see the Statute of 37 H.8.c.8.

But the inserting of these words in the Indictment, *Vi & armis*, where they are needless, as in an Indictment for an offence that lieth in *non fessans* or neglect will not hurt it. *Cook 9.50.* In forcible entry it is needless, for it is implied. *Lamb. I.P. 582. Young 121.*

Some think these words *contra pacem* are necessary to be used in all Indictments of Felony, forcible Entry, Riot, Trespass, and the like; and in all offences against any Statute, though it be for *non fessans*, and where is any force; and before the Statute *vi & armis* must have been used: for in 17 *Jac. B.R.* one *Palfray* was indicted for a common Barretor, and the Indictment was quashed, because it did not say *contra pacem domini Regis, nec contra formam Statuti.* *Cook 9.50. Lamb. 502. Young 121. in Stat. 4 Jac. 1.*

But the inserting of these words where they are needless will not hurt the Indictment. Nor a false Conclusion of an Indictment.

The omission of these words, that the parry slain was *in pace Dei & Domini Regis* will not hurt the Indictment. *Cook 4.41.* In pace domini Regis.

If an Indictment have these words in the beginning *felonice & ex malitia precogitata*, to the

Affray, and after omit it to the stroke, yet it is good. *Cook* 4. 41.

If the Indictment be *Quod A verberavit B & unum Equum precii 20s felonice cepit*, omitting *ipsum B* this is good. *Fitz Indictment* 9.

If in an Indictment for Robbery *insultum fecit* be omitted, this makes it void for Felony, but not for Robbery. *Dier* 224. *Hill.* 7 *lar. B.R.*

This Indictment was thus; *Iuratores praesentant Si I B de &c.* instead of *Quod I B de &c.* and it was quashed.

An Indictment was, *Quod quidam A in terra Libertatem Domini Regis ville sue de Cossam, &c. subter mamillam, &c. dedit vulnus, &c. Avus cum pelleto plumbeo vulnus totaliter penetravit in &c per corpus, &c.* Exceptions, 1. That the Village of *Cossam* was not said to be within the Liberty of *Cossam*. 2. For that it was *subter mamillam* with a single m. 3. For that it was *vulnus*. 4. For that the depth and breadth of the wound was not described; but were over-ruled, yet for want of the word *Percussit* it was made void after Outlawry and the party discharged. *Longes Case. Cook* 5. 20.

Where the Indictment is of a living thing and the number is to be set down, or of a dead thing in the singular number, or that goeth by weight or measure, or of Coin that is not current, it must be *pretii, non ad valentiam*. But if it be of dead things in the plurall number not going by weight or measure, or of current money, then it must be *ad valentiam, non pretii*. If it be of dead things it must be *bona et castella* expressing the names thereof in certain. If living things be

must say, *Equum, Bovem, Ovem, &c.* The number must be expressed.

If an Indictment be that *Bona pradiſt. W S felonice cepit*, and *W S* not spoken of before is naught.

If the Indictment be for taking the Goods of a Church, it must say, *Bona Parochianorum in custodia Gardianorum, &c.* and *Bona Ecclesie* is not good. *Brook Indiſt. 33.*

If it be the Goods of a Parson, it must be *bona Reſtoris* not *Ecclesie*. *37 H. 6. 30. Young 120.*

The Goods of a Corporation they must be said to be Goods of them by the name of their Corporation.

If the Goods were taken from the Testator, the Indictment must be *bona Testatoris*. But if after his death, it must be *bona Testatoris in custodia Executorum existens*, *Lamb. Juſt. P. 496. Young 120.*

For the taking away of a Coatar more over a Tomb, it must be *bona Executoris* of him whose Tomb it is. But for a Tomb-stone *bona Ecclesie*. If they be taken from a Trespasser, they must be said his Goods that had the last possession. But if deliver them to one to keep for me, and they be taken from him, it must be *bona* of me in his keeping. *Young 121.*

An Indictment *de bona capelle in custodia, &c.* *bona domus*, or *Ecclesie tempore vacationis*, it seems is good. *7 Ed. 4. 14.*

Every Indictment or Presentment must have Verity in it, and it is to be framed as near the truth as may be; for it is to be found by the Jury upon their Oathes, and the Indictment being *vere dictum*, and a matter of Record ought to

Cap. 16 set forth all the truth that by Law is requisite. For *de non apparentibus & de non existentibus eadem est ratio*. And every part of it must be found by the Jurors, and no part can be supplied by Averment. And if it be not so, it is insufficient. *Stat. 31 Eliz. c. 5.*

Certainty.
Uncertainty.

Also it must have a full and precise certainty and perspicuity in the Record it self, so that it need no supply by argument or intendment, for it is to be found by the Oath of Laymen. And this certainty lieth in six things. 1. In the persons that did the offence, and against whom the offence was done. And for this we are to know, that though it be not needfull in Informations, yet in Indictments and Presentments the names of Baptisme and surname of the Party indicted and presented with an Addition of his mystery or degree, and his dwelling place is to be inserted, as *1 S. de Win Com. G Mercer. 1 H. 5. 1. 5. Poultou de pace 169. viz.* The Town hamlet and County of which he is or hath been of late conversant; otherwise it is insufficient and may be avoided. And a mistake in the name of Baptisme is more dangerous than in the surname; for a man may plead *Misnomer* of his name of Baptisme, but of his surname not.

Additions necessary, and what is a good addition or not.

The addition of the degree or mystery must be alwayes such as the party hath at the very time. But the Addition of the place may be of such where he was at any time before, so that the word *nuper* be added. *Young 119. Lamb. I. P. 490. 491.*

The Addition of Names of Dignity by Creation, as Duke, Marques, Earl, Vicount, Archbishop, Knight, Serjeant at Law. Or without Creation

Creation, as Baron, Esquire, Gentleman. Also Alderman, Widow, Spinster, Single woman, Doctor, Clerk, Parish clerk, Merchant, Grocer, Mercer, Tailor, Broker, Husbandman, Hostler, Millard, Haberdasher, Goldsmith, Butcher, Carpenter, Chapman, Smith, Labourer, Lighterman, Waterman, Spinner, and such like are good, for the Mystery or Occupation. But Farmer, Servant, Butler, Chamberlin, Citizen, Extortioner, Maintainer, Vagabond, Heretick, Usurer, Thief, Schismatick, Dicer, Carder, Chancellor, Treasurer, Sheriff, Coroner, Escheator, Bailiff, Dean, Archdeacon, Prebend, or Parson, which are Names of Dignity by reason of Office onely, are not good Additions. *Crom. 7.P.96 5 Ed.4.40 Dier 203*

The Inhabitants of a Parish may be indicted either by their names in particular, or in general, without naming any one of them in particular: and the Indictment is good either way.

8 Jac. Cook et Walberton

If a man have two names, or be usually called by two names, he may be indicted by either of them.

If one be indicted by the name of I S servant to I W in the County of *Middlesex* Butcher, this is void, for servant is no Addition, and Butcher shall be referred to the last name. *9 Ed.4.48*

So if it be I S *nuper de E in Com. Suxor W S nuper Spinster*, it is vitious.

If an Indictment be against three, and in the end of their names is Yeoman, this is defective for the two first names. *Dier 285 Plow.5.37*

If an Indictment be against I S *Civem et Panner, London, alias dist. I S de London Draper:*

I i 4

this

this is naught, for he may be *Panner* of *London* and dwell at *Tork*.

But *Mercer* of *London* is a good Addition 36 H.6.30 The *alias dist.* after will not help the *Misnosmer* before, for the Addition must be in the premisses, not in the *alias dist.* Dier 50

If it be I S *de C in Com.* *G nuper Teoman*, this is not good, for it must be the *Mystery* he is now of; yet I S *nuper de C* is good for the place, but it is best to write him of the place he is.

This Addition must also comprehend the Town or Hamlet, or place known out of any Town or Hamlet, and the County whereof the party indicted is, or wast; for by the omission of the Town or County the Indictment is naught. And if there be divers Hamlets in one, he may be named of the Town or Hamlet, or of such a Hamlet *in Parochia de S.* But if he be named of a place known, and the place be within the Town, he must be named of the Town: and if both Town and Parish bear one name, he may be named of either.

If there be two Towns or Villages in one Parish, then he ought to be named of the Parish, if there be but one Village in the Parish, he is to be named of the Village *in Parochia de S.* or *de Parochia*, omitting the Village. But if there be divers Villages or Towns in one Parish, he must be named of which Village *in Parochia de S.* and it is not sufficient to say, *de Parochia de S tantum*. If a man have a Family in two Counties or places, and live sometimes at the one, and sometimes at the other, he may be named of either. And if a Serjeant at Law doth use to keep

Termes,

Termes, he may be said to be of London, or of Cap. 16.
the place where he dwelled.

If an Indictment be against the Parson of Dale, without naming the place of his abode, or against the Rector of the Church of Dale in the County of Glou. this is not good, 22 H.6.41

An Indictment was against divers for a Rior, and it was not expressed in what County they were, for that it was quashed. Pasch. 18 1a.

And Indictment was for killing a mans wife thus, That the said A was *in pace*, &c. *quousque ante dictus* I S *vir prefatus* A S de H *predicti*. in Com. pred. Yeoman. In this Case it was held good, for it was *super visum Corporis*, otherwise not, for it should have been *nuper vir*. 2 Yeoman shall be referred to the Husband, for it cannot be referred to the Wife. But if it were *Spinster*, *contra*, for that Addition is appliable to a man or Woman. Dier 46.47

But these Additions are not necessary in Informations against the Breakers of penal Laws. Nor upon a Sheriffs Return of a Rescues. 13 H. 7.21

Nor is this Addition so necessary to the name of the person to whom the offence is done. Yet regularly there must be some certainty in the name of the person against whom the offence is done. Young 120 For a Murder may be charged to be upon I Parish Priest of W, without any surname, or *de quodam ignoto*, or *Bona cujusdam hominis ignoti felonice cepit*, and it is good. But if the Indictment say, *Quod furatus est tunicam hominis ignoti quem invenit mortuum*, this is naught. Yet if the party to whom the offence was done cannot be found, it is

Cap. 16. is good without naming him, as before. So for an assault, *insultum fecit super quendam ignotum*, Young 118. And yet if an Indictment run thus, that he stole twenty sheep price, &c. and doth not say of whom, or that they were the goods of any body, this is not good. So if the Indictment be, that A. entred into a house with 10 other persons, and neither name them, nor say they were *ignoti*, this is not a good indictment.

If an Indictment be against a man for an accessory, the name of the principall must be set down, So also the accessory in case the principall be indicted for that offence, else, it is not good; and therefore if the Indictment be that a *mandavit curiam ignoto occidere B, quod fecit*, this is void, but in case of Treason, Trespasse, or maim, where all are principalls, it may be good enough, *quod procuravit personas ignotas* to do the fact.

An Indictment for distraining the Kings subjects, and doth not say whom, is void.

An Indictment for selling and making of tanned Leather, and did set down the persons to whom it was sold was misliked, for it is traversable, 1 R. 3. 1.

7. For the time, and how it shall be laid, and when the Fact shall be said to be done,

As in personall actions, so in Indictments, Pre-
sentments, &c. The day and yeare when the offence was done, and sometimes the houre must be certainly set down, as 10 Martii Anno Domini nunc Regis Anglie 21. or the Indictment will not be good, for if a man be hurt above a yeare before, it is no felony, and for trespassse against personall Statutes, the offence must be done within a certain time before Statute 13 Eliz. 5. 39 Eliz. 1.

2 Jac. 4

And therefore if a felony or trespassse be laid by

an

an Indictment to be done, and no time set down when it should be done, or if it be to *Martii* without saying in what yeare, it is vicious, *Broo. Indict. ment 41.* But if it be said to be done *diem proximum post diem Pentecostes*, or the tenth of *March*, *ultimo preterito*, or the tenth day from *Easter* the fourth *Car.* or the *utis* of the holy *Trinity*; these are good Indictments, *id certum est quod certum reddi potest*, 8 H. 4. 8. 2 H. 7. 7. 3 Ed. 4. 8. and so if it be *An Domini 1543.* without naming the yeare of the King, it is good, and shall be taken as we ordinarily take it.

If it be said to be done, *in festo Sancti Petri*, it is Incertainty. is not good, for there are many feasts of that name and they have additions, 3 H. 7. 5 *Fitz. indictments 22.* But it seems in *Festo Sancti Mich.* is good.

If the indictment lay the thing to be done on a day yet to come, it is naught, so of a day that never was, as the 29 of *February*, except in a *Bissextile*, which is every fourth yeare, for then it hath 29 dayes.

When severall acts which are done at severall times do make up the offence, as the stroke and the death both times, must be certainly expressed, *Broo Indict. 41 Dier 69.*

When severall actions which are done at severall times do make up the offence, as the stroke and the death both times must be certainly expressed, *Brook Intell. 41. Dier 69.*

If an Indictment be against *I S* for a stroke the fourth of *August*, and death thereby the nineteenth of *December*, and saith further, that *T W tempore felonie et muredredis 4 Augusti &c. felonice fuer. presunt cum gladiis, &c. tunc et ibidem auxiliantes*

Cap. 16. *antes assistantes*, &c. this is void, for the murder was not till the last day, and that *auxilantes* is necessary in this case, for it cannot be supplied by Argument or indictment, Cook 9.62.5. 120 42.

If an Indict. be that A struck B the 19 day of May, whereof he languisheth till May 20, *quo quidem* 19 May he died of the same stroke, this is naught, for it should be he died the 20 day, Dier 50.

If the offence be done in the night before midnight, it must be laid to be the day before, if after, it must be laid to be done the following day, Lam. 1 P 402. Young 219.

An indictment was, that A such a day, did a felony at H. for which W. did arrest him at H. aforeforesaid, *et in salva custodia ad tunc et ibidem habuit quousque def. in predict. A ad tunc et ibidem insultrum fecit et eundem ad tunc et ibidem felonice rescussit*, &c. *dubatur*, if the first *ad tunc* made the time of the arrest certain enough. 2. And whether the last *ad tunc*, &c. may be referred to any part of the said day. But it should have been *dicto die*, &c.

If a Presentment be in the negative, or an affirmative rising of a negative, as that A. hath not skowred such a Sewer, or that by the not skowring thereof, such Meadows be drowned, in this case there needeth no yeare or day, for it affirmeth a present evil, Lamb 492. Young 119.

Incertainy. If the indictment say, that A. stole goods, 10 Martii & 20 Martii, this is void for incertainy, for one felony cannot bee twice committed. 2 H. 7. 7.

If one lay a Felonie to be done [the tenth of May, and an escape of him the first of May, Anno 20 *supra dict.* this is naught, for he cannot be necessary

8 For the place of doing the thing, and how it shall be laid down

cessary before the fact done, 21 H. 7. 35.

The place, (*viz.*) the Town and County where the fact was done must be certainly set down in every Indictment, as *apud Dale in Com. Glouc.* And therefore if the Indictment suppose an offence to be done, and do not say in what town, it is void, so if he do not say in what County 9. H.

6. 1. If he suppose it to be done in such a place as is not within the County, it is naught. 9 H. 6. ch. 1. 18 H. 6. ch. 12.

As if an indictment be laid to be at *Iffington*, Incertainty, and say not in what County, it is void. So if one be indicted for selling tanned Leather, and do not say where, or to whom, this is void for incertainty,

Broo. Indictment 43 *Broo.* pleading 158. *Lamb.* 149. And if an indictment be that I gave the Livery at such a time and place to him, and that he did weare it, but doth not say when or where, this is not good, 5 H. 7. 18.

Or if he be for selling and making of tanned Leather, and no place where, it is naught, for it is traversable 1 Ric. 3. 1. *Lamb.* 1. p. 499.

If the offence be laid to be at *Dale in Com. predict.* having reference to the name of the country in the Margent of the Indictment, it is doubted, whether this be a good Indictment.

If one be indicted, that he by the command of one A. did rescue a felon, this is not good, for it is not shewed where the command was given 3 H. 7. 12.

But the setting down of too much, as if it be *apud D. in Com. G. in quodam loco vocat. Northclose*, will not hurt the Indictment.

And if it be that he distrained at *Dale*, and J. S. rescued the distresse, and doth not say where,

Cap. 16.

it seems this is good, for it shall be intended the first place, otherwise it were in case of such a return by a Sheriffe of the rescue of a person.

When severall Acts done at severall times, do make up the offence, as the stroke and the death, both places must be laid down certainly and therefore if the Indictment be, that *A. at Dale insultum fecit & ipsum murdravit sans astrum & ibidem*, it is not good *Dier. 69.*

If the Indictment be that he gave the wound 27 *apud D in Com. G.* and that he died thereof at *S &c.* and so he murdered him at *D*, this is naught, for he can no more say he killed him at the first place, then the first day, *Cook. 4. 42. 47.*

The Indictment may suppose part of the offence to be done in one County, and part in another County, and yet good.

9. For the name and quality of the thing in which the offence is committed.

uncertainty.

The name & quality of the thing in which the offence is committed, must also be certainly set forth as if an Indictment be for forcible entry into Land, the Indictment must say what Land. Therefore to say *manu forti intraverunt in Tenementum*, &c. is naught, for *Tenementum* may mean a house, as well as Land, Meadow, or Pasture, *Lamb 1 F 499.* So *Quod intravit in Scitum Manerii de S five domum mansionalem WS* this is void for uncertainty, *Trin 7 Jac. B R*; and if it be felony, it must be a personall thing, else it cannot be felony, *Young 121.*

An indictment of the taking of *Bona & Catallis*, it is not good in Trespass or felony.

If it be dead things, it may be *bona & Catallis*, expressing the names of the thing in certainty, but if it be of things living, it shall not say *Bona & Catallis*, but *equum, bovem, ovem, &c.*

The

10. For the value or price of the thing in which the offence is

committed

11 For the description of the matter and manner of the offence.

The value or price of the thing wherein the offence is done, must also be certainly set down to shew the nature of the offence, and whether it be petit Larceny or not, as *quendam vaccam, &c. pretii 40 shil. &c. felonice cepit*, for where the number ought to be expressed, as if it be for taking sheep, doves, &c. The Indictment must say *preiur* or *ad valentiam*, so much, or else it is not good. And therefore an Indictment against A that he import *unum plastrum faeni*, omitting *ad valentiam*, was adjudged void; an Indictment in Felony or Trespass, for taking *Bona & Cavalla*, without expressing the name and value of the thing is void for uncertainty. So an indictment for breaking a close, and carrying away Corn, omitting *ad valentiam* is naught, 9 Ed. 4. 1.

The matter it self, the nature of the fact, and offence, and manner of the doing of it, must be also clearly set forth, that it may be distinguished and seen what the offence is, whether Treason, felony, &c. and against what Law it is, otherwise the Arrestment or Indictment will not be good. And therefore if the indictment be, that A *captum pro feloniam, felonice et voluntarie ad largum in permissit*. And doth not say for what felony he was taken, this is naught, 8 Ed. 4. 4. So *quod felonice fregit prisonam apud A*, and doth not shew for what he was imprisoned there, 9 Ed. 4. 12. 25. Ed. 3. ch. 9, So if a man be indicted for making of 100 shil. of Alcumy, *ad instar pecunie Domini Regis*, and doth not alleadge what money it was, Groates, or pence, this is naught, *Fitz Indictment* 10.

And therefore in murder, and manslaughter, it is good to expresse the stroke whereof the death ensued

Uncertainty.

Cap. 16.

ensued *Dier* 69. If the Indictment be, that he killed with a Dagger and it was a Sword, it is good enough, *Cook* 967. *Young* 120.

Darvel was indicted for killing *Bowser*, And it was found they were both in the field with their weapons, and that *Bowser* going out of the field and returning, drew his Sword upon *Darvel*, and that then *Darvel* returned back, near the hedge, and said, 'tis no place to fight, and so *Bowser* stroke *Darvel*, & then *Darvel* killed *Bowser*, and hence we collect (saith the Jury) that *Darvel* killed *Bowser* *se defendendo*, and this was qualified for ambiguity and incertainty, *Hill* 17. B: R.

An Indictment for murder was quashed, for that it said *cum ense percussit*, and omitting *quod in manu sua tenuit*. Also for that it omitted *quod felonice insultum fecit super illum*, &c. Also for that it did not shew after the *dans ei* &c. that part of the body that was wounded, Also for that it said *percussit*, and omitted *ad tunc et ibidem*. But exceptions was taken, for that it is said *dans ei*, &c. and did not say *eidem*, but this was not allowed. *Fullers Case* B R, *Longs Case* *Cook* 5. 20. *percussit* to expresse stroke is a materiall word.

If an Indictment be for a wound, and it be laid to be *subter sinistrum brachium*, or *subter mamillam* or *circa umbellieum*; these are void for incertainty. But *subter brachium*, *circa mamillam* or *in sinistra parte ventris* or *in sinistra parte ventris circa umbellieum*; these are good and certain enough, *Cook* 4 41. 9 114. 9 *Fac*.

So if the indictment be, *quod dedite unā plagam mortale circiter pectus*, this is not good, for it must say in what part the wound is, the depth and breadth of it, if it be not a part cut off. And if there

there be two wounds alledged, and one of them is more uncertainly set down, this will marre the whole Indictment; if he say, *de vulneribus prædictis*, he died, Cook 4.41. §. 120. 9. 62. 114.

Indictment was for poisoning, and said that he perswaded the other that the potion was mixed with *Cantharides*, and would make him have issue, &c. *Nesciens prædict. potum cum veneno fore mixtum. Sed fidem adhibens prædict. persuasione* (dict. W. *recipit & bibit*) omitting *venenum prædictum*, and it was naught, and that the words following, *Immediate post receptionem veneni prædicti*, will not help. For a fault in an Indictment cannot be made up by implication, Cook 4.44.

The Indictment was thus, The sonne had taken his sick Father, and carried him into the cold weather, whereof he died, it was disallowed, because it wanted *felonice*, &c. *percussit* is apt if not a necessary word for this Indictment.

An Indictment was, *Quod quidam A. B. infra libertatem Dom. Reg. villæ suæ de Cossam, &c. subter mamillam, &c. dedit vulnus, &c. dans cum pellete plumbeo, &c. vulnus rotaliter penetrans in & per corpus, &c.* And exceptions were taken, 1. for that the village of Cossam was not said to be within the Liberty, and therefore uncertain. 2. For that it was *subter mamillam*, with a single M. which is a word insensible. 3. For that it was *Vulnus*, for that the depth and bredth of the wound was not described; but these were over-ruled. And another exception taken out of these words, *Quod tormentum cum Pulvere & pellete Plumbeo, onerat in & super ipsum H.*

Cap. 16. *exonerat dans eisdem, &c. unum vulnus mortale, omitting Percussit.* And for this it was quashed, after outlawry, and he discharged. *Cook* 5. 20.

If an Indictment be against I. S. for a stroke, 4^o *Augusti*, and death thereby, 19 *December*. And it goeth further, and saith, That *T. M.*, &c. *Tempore felonie et muredise 4 Augusti, &c. felonice fuerunt present. cum gladiis, &c. tunc et ibidem auxiliantes, assistentes, &c.* It was judged insufficient, for the murder was not till the last day: It should have been *modo et forma predicta*. Also in this it was agreed, that the clause of *Auxiliantes, &c.* is necessary in this cause, and that without it the Indictment is insufficient: for an Indictment cannot be supported by Argument or Implication, *Coo.* 4. 42, 47. 5. 220. 9. 62.

One was indicted for taking a halfe-peny from another in the high-way, and *insultum fecit* was omitted, therefore the Court resolved it a good Indictment for felony, but not for robbery, and therefore he had his Clergie, *Hill* 27. *Jac.* B, R. *Dier.* 224.

John Green was indicted for stopping a high-way leading from the village of A. to the village of B. and exception was taken, because he did not shew with what he did stop it; but it was not allowed, *Hill* 28. *Jac.*

An Indictment was preferred in *Banco Reg.* for subornation of perjury, and the substance of it was this, that where the 25 of *January*, 11 *Jac.* divers Articles were preferred in the Court of Chancery at Westminster, in the County of Middlesex, for the good behaviour against I. S. and *Henry Ockley*, then and there produced, *Ad testificandum veritatem de nominibus*

sua super Articulos predictos. ad tunc & ibidem juravit predictos Articulos esse veros secundum cognitionem suam, ubi revera predictus Henricus non cognoverit predictos Articulos aut aliquot eorum esse veros, et sic predictus Henricus manifestum perjurium ad tunc & ibidem commisit. And that the said John Whistly did then and there suborne him to commit the said perjury, *Contra pacem, &c. & contra leges Regni sui Anglie.* And two exceptions were taken to this, 1. For that hee did not alledge that the Articles were false. For if they be true, and he sweare them so in his knowledge, though he know them not to be so, this is not perjury. But this was disallowed by the Court, and held to bee perjury. And a second was taken to it, because hee did not conclude, *Contra formam Statuti.* For it was said, that Perjury was no offence at Common law, except only in the same Court where it was done: but this was disallowed also. And it was held, that perjury was punishable by the Common Law, *Mich. 20. Jac.*

The Inhabitants of *Epnay* were indicted for suffering two Cribbes to lye unrepaired, by which the water over-flowed into the Highway and marred it. And exceptions was taken, because it did not shew how these Inhabitants were chargeable by prescription, and therefore quashed. But if the Indictment had said, That the Inhabitants of *Epnay* ought to have repaired it, it might have been good, especially after a verdict, and the Inhabitants found guilty: For it is then to be presumed that they were satisfied how they were chargeable. And if there be a *Nuisance* by the not cleansing of a River, and

Cap. 16. it cannot be known who should doe it, it seemes they must doe it that have or may have most benefit by it, as those whose grounds are neereſt, or have the fiſhing there. *Bro. Presentment*, 3, 10, 11.

A Presentment was, that hee had ſtopped a courſe of water from S. by ſuffering his Trees to grow *ad nocumentum*, it ſeemes he ſhall not be amerced for this, till he be commanded to amend it. *Bro. Presentment* 11.

One was preſented that he and all thoſe, &c. were wont to cleaſe ſuch a gutter for the eaſe of the Hight-way, *Ratione tenure ejusdem terre*, and exception was taken that he did not ſhew where the Land is; for hee may ſay, that the Land is not charged, or that he hath it not, or the Land may lye in another County, and then it is not triable here. But if it had ſaid, *Ratione talis terre ibidem*, this might make it good, ſo if it be *Ratione terrarum in S.* in general it is good. And in theſe caſes, it muſt be the Kings Highway that ſuffers, elſe the party indicted may ſhew it. 5 H. 7 3. *Bro. Present.* 9, 10, 18, 22.

A Presentment that there is ſuch a High-way, that I. S. by reaſon of his Tenure ought to re- paire it; that it is decayed, was ruled to bee naught, becauſe it wanted theſe words, *De tempore cujus contrarium*, 21. Ed. 4. 73. *Broo. Presentment*, 19, 20.

If the Indictment be, that a man made an hundred pounds of Alchimy *ad inſtar pecunie Dom. Regis*, and doth not ſhew like what money, as Groats, Shillings, &c. this is not good. *Dier* 96. **Vncertainty.** So that hee ſpake words againſt the King, and ſhew what words uncertain, and then adde, *vel his*

his familia. Broo. Action sur le case.

An Indictment against a man that he is a common Thiefe, a common mis-liver, or a common Fore-staller, or a common conspirator, or a common Champertor, *Broo. Indiſt.* 12, 19. *Young* 117. and shew not in what particular it is void, *Flow.* 75. 29, 45. So to say of an Officer, he is a generall Extortioner, 25 *Ed. 3. Stat. 3. chap. 9.*

So to say they are *Insidiatores viarum, & depopulatores agrorum*, they are void, 4 *H. 4. chap. 2. 17 Ed. 4. 4.*

If it be that *I. S. de, &c. (existens communis deceptor subditorum Domini Regis)* 18. *Ian. 17 Jac. apud L. in London prediſt. duas libratas Anglice*, Stalkes of Clothes in stead of two Clothes, for 18 l. *Legalis monete Anglie* to A. B. *de S. deceptive vendidit*, then warranting them to bee Cloathes, whereas he knew them to be counterfeit, &c. This is a good Indictment. *Pikes case.*

To indict a man for Battery and wounding, and not say with what weapon, nor in what part of the body hee is wounded, is naught.

Yet to say, *Quod interfecit quendam hominem ignotum*, or for the stealing of the goods of a man unknown, is good, *Stamf. Pl. Cor.* 95. *Young* f. 117. *Cook* 120.

If there be two degrees of an offence, as making and publishing, and the Indictment speake but of one, it is naught, 6 *H. 7. 12.*

To charge a man with homicide, and not to say with what weapon, is not good. *Buttons case*, 14 *Jac. B. R.*

Cap. 16

An Indictment that I. S. when he was an Officer, took from W. S. twenty shillings, it seems is good for extortion. *Brook. Indictments* 11.

If an Indictment be against an Accessary, the manner of the Felony must be set down. And that he knowing him to have done such a Felony, did feloniously receive him; otherwise it is, if he be attainted of Felony in the same County. And therefore it is not good to say he received the goods, and nor the felon, *Stat. 2 & 3 Ed. 6. ch. 24.* nor to say that he, *Scientem felonem domini Regis apud A. recepit*, without shewing what felony he committed, nor without saying he knowing it, received him feloniously, unlesse he receive one attainted with Felony in the same County, 7 H. 6, 42, 65. 2 Cook 4. 43, 44. *Young* 125.

If an Indictment being, that A. was present when B. was murdered, and say not that hee did strike, aid, comfort, or cause to be stricken, it was quashed. *Brook. Indict.* 15.

If it be *Sciens ipsos homines feloniam, &c. fecisse apud D. felonice recepit, &c.* this is naught also; for it doth not shew which of them he received: But it must be that he did receive them all foure by name, or three, two, or one of them by name, 30. H. 6, 2. And yet if 4. be indicted joyntly, they are hereby indicted severally, *Poulton de pace* 168.

2. For other cause,

If an Indictment finde any matter of record, as Outlawry, or the like, that is not shewed to the Jurors *sub pede sigilli*, it may be rejected, for Jurors are to finde matters of fact onely, *Lamb. I. P.* 503.

If

If a man be indicted for an offence at the Common Law, which is none, this is void, and the party must be discharged. For if it bee an offence made upon a Statute, he must then be indicted upon the Statute.

Cap. 16.
On the Statute, and how it shall be made, and when good, or not.
Misrecital:

The Indictments that are grounded upon a Statute, need not (as heretofore was used) to recite all the Statute *verbatim*, and the time of the beginning, continuance, and end thereof. Nor is it policy so to doe; for misrecital is dangerous, and will make the Indictment void. But the Statute for substance must be pursued strictly, and *in terminis* in the Indictment. And the material words according to the purview thereof, and the offence surable to it, must bee certainly, and with full words described; for if any thing material in the setting forth of the Statute, and the offence bee omitted, the words *contra formam statuti* (which doe onely supply matter of Circumstance, and not of Substance) will not help it. The court therefore is fully and certainly to describe the offence against the tenor of the Statute, and to make the Indictment as large as the Statute, and then to conclude in these words, *Contra formam statuti*; Or, *diversorum statutorum domini Regis, &c.* Where there be many Statutes, *inde edit: & provis.* And, *Contra formam statuti*, omitting all that comes after, is good enough, *Plow. 79, 80, 84. Dalt. 360 Cromp. 93, 94. Lamb. I. P. 592. Tounge 121.* But if these words, *Contra formam statuti*, be left out in an Indictment for an offence which is so by a Statute, as a Ryot, or the like, the Indictment is erroneous; for the offences are not punishable but by the statute, *Lamb. 502, Crom. 88.*

Cap. 16. If the Statute say the Subsidy not paid, or the Collector not agreed with; it is not sufficient to lay in the Indictment, the Subsidy not paid, without saying the Collector was not agreed with. *Plow. 1.*

If the Indictment be according to the words of the Statute, and not according to the sense, it is good enough, and the party may help himself by pleading, or giving in evidence the special matter. As if an Indictment bee against a man for taking of more than the market price, and the case was, that he took it of another not of his gifts, 18 *Ja. B. R.*

An Indictment was against divers men, that being sixteen yeares of age, they had not come to any Parish Church by the space of a moneth; exceptions was taken, 1. because the indictment did not say they were Popish Recusants. 2. Because they did not say, having no lawfull excuse for their absence, and quashed. For an Indictment upon a statute must contain all the materiall passages of the statute.

An Information was exhibited in the Exchequer, and thereby an usurious contract in certain, that the party had taken more than the ten pound for the loan of an hundred pound; did appeare; so that it was corrupt, and it did plainly appeare. And he concluded, *Contra formam statuti*; and because hee did not say expressly, that it was *per corruptam accommodatorem*, according to the words of the penall law, the Information was adjudged insufficient, *Cook 11. 58.*

A. was indicted upon the statute of 5 *Elizabeth. 1* & 2. for aiding another, knowing him to be

bee a principall maintainer of the authority of the Bishop of Rome, with these words, *contra formam statuti prædicti*. but because the Indictment wanted certain materiall words expressly mentioned in the statute, (*viz.*) upon purpose, and to the intent to extoll the authority, &c. It was by the more part of the Judges agreed to be void. *Dier* 163.

And yet it is, that an Article upon the Statute, 1 M. that hee did contemptuously disturb the Minister in time of divine Service, *Contra formam statuti*, without willingly and of set purpose, was good, 42. *Eliz. B.R. Travers* case. *Dier* 112. *Pl* 86.

So if one bring an Action upon the Statute of 6 R. 3. of a Feme ravished *contra formam statuti*, and it is not said shee consented to the Ravisher, is good, whereby it appeareth, that the Law is not so nice and precise in case of declaration between party and party, as it is in case of Indictments, 11 H. 4. 13, 14. *Cook* 5. 120.

If an Indictment be, that A. disseise B. on force, *contra formam statuti in Parlamento Dom. H. 6. nuper Regis Angl. Anno Regni sui 8.* is not good, if the entry of A. bee lawfull. But it must be that A. *expulit* B. *de son Franktenement*.

A Presentment was thus :

Iohannes Smith de Ludlow in Com. prædict. existens servus, sive deputatus Oliver Floyd, Officialis & Commissarii Episcopi Episcopi Heref. 27. Feb. 18. Iac. extorsive requisivit, habuit & recepit octo solidos legalis, &c. de
Thoma

Cap. 16. *Thoma Maud, de &c. pro scriptione Admini-
stratoris bonorum & cattallarum Iohannis Lila
defuncti. &c. colore Officii dicti Commissarii,*
and the Indictment was quashed, becaule hee
did not say, *Servus sive Deputatus Commissarii.*
And afterwards he amended it, and made it,
Existens Scriba sive Deputatus Commissarii, &c.
and it was quashed again.

Also another exception was taken, for that he
did not say, of what value the goods were, and
yet said, *contra formam statuti*, for the Goods
may be above 40 l. and then it is *casus omissus*,
and in this case it was agreed, that if there be a-
ny fault in the Indictment, *contra formam sta-
ti*, will not help, *Mich. 28. Jac.* As if an Infor-
mation be for usury, and doth not say (*corrupte*)
contra formam statuti will not help, for these
words supply only circumstance, not any matter
of substance, *opinio curie*, 18 *Ja. B. R. Dier. 312.*
363. 11. H. 4. 13.

One was indicted upon the Statute of *Q. M.*
for high-ways, and divers exceptions were ta-
ken to it. 1. For that it did not shew who were
the Surveyors then; but it was ruled that they
need not be named. 2. For that it shewed that
they gave notice after Easter; and did not shew
which Easter; but it was ruled, that it was suf-
ficient to say, that a day was appointed for re-
parations, at which day hee made default. 3. For
that the Indictment saith, *habens duas carucas
terre*, and the statute saith [*occupans*]. But
But it was ruled to be good; for if one suffer
his land to be fresh, yet he is within the Sta-
tute. 4. For that he did not say, the way to be
amended, doth lead from or to a Market Town;
and

and it was ruled to be good, for it said that it
was *alta via*, that leads from Town to Town.
Mich. 21. 1a.B.R. *per curiam*.

Presentment was thus:

Quod quidam A. I. existens stabularius 1. Junii, 17. lac. habuit & recepit apud parochiam de S. de diversis subditis Dom. Regis pro ducentis modis avenarum Anglice Bushels, venditis & utteratis infra domum suam mansionalem secundum ratam duorum solidorum & 8 denariorum pro modio Vbi 1. Julii, 16. lac. & postea usque ad 5. Junii, 17. lac. commune pretium avenarum in mercatis de Brainford & Stanes, & aliis mercatis predict. Com. Midd. non fuit ultra ratam, de 20 d. pro quolibet modio, contra formam statuti, &c.

And upon non-guilty the Jury found him guilty, and divers exceptions were taken against it. (*inter alia*) 1. That hee did not alledge expressly the common voyce of the Market, but said, *quod pretium non fuit ultra*. 2. That he said, *ubi pretium non fuit ultra 20 d. pro quolibet modio*, where hee ought to have said, *Pro aliquo modio, or pro avenis*. 3. For that hee did not say, that hee was an Hostler at the time of the offence. 4. For that he said, *De diversis subditis*, whereas he should have said, *de diversis hospitibus*. 5. For that he said *infra domum mansionalem*, when he should have said *infra hospitium*. 6. For that he alledged the sale to bee without time or place. 7. For that he said, *Recepit pro 200 modis avenarum Anglice Bushels*, and said not of Cars, yet the opinion of the Court was, that the Indictment was good.

Hill

Cap. 16. *Hill. 8. Jac. B. R. Johnsons case.*

A Parson was indicted in B. R. upon the statute 1. *Eliz.* For not celebrating the Sacrament of the Lords Supper according to the Rites and Ceremonies of the Booke of Common prayer, made in the time of *Ed. 6.* (viz.) in not placing the Communion Table in the midit of the Chancell, or in some convenient place for the people, and in compelling the people to come to a Raile at the upper end of a Church, not convenient, &c. And it was quashed, for that it did not shew what rites are contained in the Common-prayer book, and it is too generall.

Serjeant *Richardson* was indicted upon the statute of *Westm. 1. chap. 29.* and two exceptions were taken to the Indictment, 1. in the form, for it charged him that he spake these words, *Anglice.* He knew it to bee otherwise: Where it should have been. I know it to be otherwise. For otherwise it is uncertain and insensible. 2. In the matter, 1. because it ought to be *in placitando*, not *in orando*. 2. Because this statute did not extend to the Star chamber: For this was not erected at the time of the statute, but these words were laid to be spoken there, and it was quashed for insufficiency, *Trin. 20. Jac. B. R.*

A. and B. were indicted, *eo quod illi riotose terti die, & anno intraverunt in messuag. &c. I. S. apud D. in Com. S. existens liberum tenementum diſt. 7. S. Contra statutum, &c.* and it was quashed, because he did not say, *ad tunc existens liberum tenementum* I. S. H. 15. *Jac. B. R.*

J. S. de, &c. was indicted because he dwelling in *Brainford 1. die Apr. 7. Jac.* and being a Pedler,

divers times and places fuit vaga et otiosa Persona, and was a Pedler wandering at divers times and places in *Middlesex*, and that ultimo die Maii 7 Ja. he went to *Hackney* and then and there sold a Coyse and divers other wares at *Hackney* and divers other places, to divers in their houses, and out of the Faires, and Markets, contra Leges & Statutum in hoc Casu provis. & edit. And it was adjudged good.

One was indicted upon the Statute of 3 Ja. Ch. 1. at the Sessions in the County of *Oxford*, quod ille habens unum masculum prolem did not baptise it within a moneth after the birth of it, and exception was taken to it, because he did not say when he had it, for perhaps he had it before the Statute, and then it was out of the Statute, but this exception was not allowed, for it was said it should be intended after the Statute, and where the Statute speaketh of questioning the party in a Court of Record, it shall be understood by Information in the Courts at *Westminst.* by Indictment in other Courts of Record.

An Indictment was for entry in unum Messuagium, sive Tenementum & duos Acres de terre eidem Messuagio pertinent. And the Indictment was further quod extra possessionem messuag. prædictæ tenuit. And it was judged insufficient, and the offenders discharged; for Messuagium or Tenementum is so incertain, that the Court cannot tell of what to make Restitution, and it is not good, for the Land, belonging to the said Messuage is not good, for both referre to the first incertainry.

One

Cap. 16.

One was indicted upon the Statute of 8 H. 6. and Exception taken, because in the first part of the Indictment is *Messnagium*, and after *Domus predicta*, and ruled good, for it is all one. *Trin. 22 Jac. B. R.*

One was indicted for entring into Land, and ousting the Termor and disseising the Lessor, and it was found, if the Lessor refuse Restitution, yet the Lessee may pray, and have it. *Trin. 7 Jac. B. R. per Williams Justice.*

An Indictment was, that where A was Lessee for years the Reversion to B, and C enter with force, and upon A and disseised B in the Reversion and omitted these words, and did oust A of his Term, and it was judged void, for if the Lessee be not out, the Reversioner is not out. *Mich. 7 Jac. Shellitons Case.*

In the Indictment upon 8 H. 6. c. 9 it was said, That he against whom the Bill was preferred disseisvit him that preferred the Bill with force and arms, viz. *gladiis*, &c. omitting *manu forti expulit* adjudged good at Stafford Assizes. 22 Eliz. for that it said *contra formam Statuti predicti*, which was rehearsed in the Bill.

An Action was brought upon 21 H. 6. for not returning a Burgefs. The words of the Statute are, that the Sheriff shall send his Precept unto the Maior, and if there be none, then to the Bailiff. And the Information was that he had made his Precept to the Bailiff, and did not aver that there was no Maior, yet ruled good, for that is intendable, unless it be shewed on the other side. *Hobert. Rep. 107.*

An Action was brought upon the Statute of 6 R. 2 of a *feme ravisht contra formam Statuti*, and

and it was objected that it was not laid, that she did consent to the Ravisher, but because it was laid to be *contra formam Statuti*, it was held good. 11 H. 4. 13. 14

A brought Trespass against B upon the Statute of 51 H. 3 *quod nullus distringatur per averia caruca*, &c. and count for the taking away the Beasts of the Plow, &c. but did not shew that there was any other Distresse, yet it was adjudged good, by these words *Contra formam Statuti*. Dier 312

An Action was brought upon M for disturbing the Minister, &c. and it was objected that the words (purposely and willingly) being in the Statute are omitted in the Count, yet it was adjudged good by reason of the Conclusion *Contra formam Statuti*. 42 Q. B. R. Travers Case.

An Indictment is sometimes certified by the Justices of Peace to another, and sometimes by another, as from the Coroner, or Steward, &c. to them. And in both Cases as it is certified, it may become erroneous and liable to destruction. As if an Indictment sent into the Kings Bench be certified in *English*; or it be *Inquisitio capta coram Just. ad pacem*, & omit *nec non ad diversos felon*, &c. or omit *conservand. vel assignand.* 12 H. 7. 25. 2 R. 3. 2. Or if it be *Capta ad generalem Sessionem pacis*, and say not before what Justices of Peace. Or if it omit *Per sacramentum proborum & legalium hominum*. Or if the Inquisition be *Capta die Martis & die Mercurii*, these are all naught. Cook 9. 31. 114. Cook 4. 48. or *Juratores presentant.* and omit all their names. Or *Inquisitio capta tali die & Anno coram I S.* and name no place. Dier 69. Brooks Indict. 50. And if he shew

13 When it is with a Certificate

Cap. 16.

One was indicted upon the Statute of 8 H. 6. and Exception taken, because in the first part of the Indictment is *Messnagium*, and after *Dominus predictus*, and ruled good, for it is all one. *Trin. 22 Jac. B. R.*

One was indicted for entring into Land, and ousting the Termor and disseising the Lessor, and it was found, if the Lessor refuse Restitution, yet the Lessee may pray, and have it. *Trin. 7 Jac. B. R. per Williams Justice.*

An Indictment was, that where A was Lessee for years the Reversion to B, and C enter with force, and upon A and disseised B in the Reversion and omitted these words, and did oust A of his Term, and it was judged void, for if the Lessee be not out, the Reversioner is not out. *Mich. 7 Jac. Shelltons Case.*

In the Indictment upon 8 H. 6. c. 9 it was said, That he against whom the Bill was preferred disseised him that preferred the Bill with force and arms, viz. *gladiis*, &c. omitting *manu forti expulit* adjudged good at Stafford Assizes. 22 Eliz. for that it said *contra formam Statuti predicti*, which was rehearsed in the Bill.

An Action was brought upon 21 H. 6. for not returning a Burgefs. The words of the Statute are, that the Sheriff shall send his Precept unto the Maior, and if there be none, then to the Bailiff. And the Information was that he had made his Precept to the Bailiff, and did not aver that there was no Maior, yet ruled good, for that is intendable, unless it be shewed on the other side. *Hobert. Rep. 107.*

An Action was brought upon the Statute of 6 R. 2 of a *feme ravisht contra formam Statuti*, and

and it was objected that it was not laid, that she did consent to the Ravisher, but because it was laid to be *contra formam Statuti*, it was held good. 11 H. 4. 13, 14

A brought Trespasse against B upon the Statute of 51 H. 3 *quod nullus distringatur per averia caruca*, &c. and count for the taking away the Beasts of the Plow, &c. but did not shew that there was any other Distresse, yet it was adjudged good, by these words *Contra formam Statuti*. Dier 312

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13 When it is with a Certificate

Cap. 16. shew not by what Commission the Justices took it, it seems it is not good. *Stamf. 96. 22*
4. 12

If a Coroner send in an Indictment, and return it taken before I S Maior of London (who is alwayes Coroner) yet if it say not *& Coroner*, it is not good, for it may not be supplied by intendment. *2 Ed. 4. 19* So if it be *coram coronatore*, and say not in what Countrey it is. But if it say *Coram I S coronatore, in comitatu*, for *comitatus predicti*, it is good enough; *immo subditus in iure reprobatur.*

If an Indictment be said to be taken *coram I S Beneschallo*, and say not in what Court, or to whom he is Steward. Or it be said to be taken *ad magnam Curiam I S cum Lete*, or *ad Com. Middlesex cum turno vi.* these are not good.

When an indictment void to one to one purpose, may be good to another.

An Indictment not good to one purpose may be yet good to another. As if one be indicted of Felony, and the thing falleth out to be no Felony, but is Trespas, then the Indictment is good for Trespas, to put the party to his fine. *Cromp. 96.* If A be indicted for stealing the Goods of B, and the Jury do finde that C stole them, and A took them but not feloniously from him, this is not good for the Felonie, but it may be good for the Trespas. But if A be arreigned upon an Indictment of Murder taken before the Coroner, and is found not guilty: as they must finde who did kill him. So if they do finde that C did it, this is good. *Stamf. 90 Young 125*

If an Indictment be *Quod felonice succidit arbores & illas asportavit*, or *vi & armis succidit arbores & felonice asportavit*: neither of these will make it Felony, it may be a Trespas; for

no Felony can be in Trees standing, but if it be
vi & armis succidit arbores &c. et felonice (at
 another time after *cepit & asportavit*) this may
 be Felonie. And where in an Indictment of Fe-
 lony *felonice* is wanting, it may nevertheless
 stand good to make it a Trespals, Though an In-
 dictment that is faulty (as it seems) cannot be sal-
 ved by amendment, St. 18 *Ed.* 13 as other Records
 may be, yet it may be avoided by Plea, St. 37 *H.* 8.
 8. before Judgement, by exception for error be-
 fore or after a Judgement, and by a Writ of Er-
 ror after a Judgement or Outlawry, which may
 be had in the Kings Bench after the Removall of
 the Indictment thither. But if a man will avoid it
 for any formal fault in the addition, it must be
 done before the party indicted hath pleaded the
 no Indictment; for by it he taketh on him to be
 the same person. 8 *Ed.* 4. 15. 35 *H.* 6. 12. Yet Out-
 lawries thereupon may be reversed for this de-
 fect at any time: but of other Errors the party
 may take advantage at any time before Judge-
 ment to quash, or after Judgement to reverse it.
 But if the first Indictment be in a wrong Coun-
 ty, or the first charge him as Principal, the se-
 cond as accessory after the fact.

If one have been indicted for the same of-
 fence though by another name (being called by
 two names) for which he is now indicted, or
 hath been convict for it by appeal at the suit of
 the party, he may plead this and avoid the In-
 dictment. *Dier* 85 *Cook* 4. 40, 41 especially if it
 be Felony, for a man must not be twice ques-
 tioned for his Life for the same offence (but be-
 ing once convict or acquit so long as this In-
 dictment is in force, though the new Indict-

15 How
 and when
 an Indi-
 cment may
 be avoided,
 and the par-
 ty indicted
 discharged
 thereof.

Cap. 16. ment suppose the Fact to be done in another year, or the Process be erroneous, or be qualified for insufficiency he may not be indicted. *de novo Poulton de Pace 169*

If the Indictment be about a thing whereof the Justice of Peace have no Cognisance, in which belongs to the Justices of the Forest, or the like, the party indicted may plead it to the Jurisdiction of the Court, and avoid the Indictment. 21 H. 7. 31

Sir Richard Hargrave Hill. 17 Jac. B.R. was indicted for stopping of a Way in the County of York, and he moved to be discharged, because he forty years before had inclosed the way, and then left a good and convenient Way, which had continued ever since; and the Judges of the Court resolved that if the Justices of the Peace would certifie this to them he should be discharged.

If the Indictors be Felons, such as have been out-lawed and quitted by Pardon, and are not *Probi & legales homines* the party upon shewing this exception it seems may be discharged. 11 H. 4. 35.

The Kings Pardon is a good Plea in Barr to an Indictment. So that one was indicted before of the same Felony, and acquitted upon it. *Young 124, 125*

Of Indictments

Baronores pro Domino Rege Super Sacramen- Glouc.
tum suum preſentant quod *Jacobus B.* nuper Trespasse
de *N.* in Comitatu *Glouc.* Mercer, decimo lex-
tie *Martii*, Anno Regni Domini nostri *Car.* Del
Anglie *Scotia*, *Francia*, & *Hybernia* Regis
defensor, &c. viceſſimo ſecundo, vi & armis
apud *H.* in Comitatu predicto. *Clum* cuiusdam
D. continentem per estimationem, ses acres
fregit & intravit, & ſepes, & virentes circa
predicti. tunc & ibidem exiſtent. & crescent.
ius iuste cepit, & aſportavit, & alia enormia ei
ad grave damnum ipsius *R. D.* & contra pa-
dicti Domini Regis nunc Coron. & dign.

Baronores, &c. quod *A. B.* nuper de *F.* in Comi- Trespasse in
predicto, & *A. L.* nuper de *F.* in Comitatu a cloſe.
predicto. *Teoman*, decimo die, &c. Anno &c.
& armis, &c. apud *A.* in Comitatu predicto
cuiusdam *J. B.* Armiger. vocat. *the home*
apud *A.* predicto. in Com. pred. fregerunt &
ſuam ad tunc & ibidem crescent. cum qui-
dam averiis (*viz.* vaccis & bidentibus depaſti
conculcaverunt, & conſumpſerunt ad grave
damnum ipsius *I. B.* contra pacem, &c.

In flowing

&c. quod, &c. fundum & ſolum cuiusdam
A. Teoman in quodam loco vocat. *B.* apud *G.*
predicto. cum aratro ſuo fodit, & exaravit ad gra-
&c. contra pacem, &c.

In carrying
away hay.

&c. quod &c. vi, &c. apud *L.* &c. *Clum* cu-
dam *T. M.* &c. fregit et intravit & unam carrect.
ad valentiam 10 s. de bonis & catallis pre-
dicti. *T.* ad tunc & ibidem invent cepit, & aſporra-
contra pacem, &c.

Cap. 16.

In treading
grasse.

Iur. &c. quod G. Dac. vi &c. clausum cuiusdam
I. K. apud D. in Comitatu prædicto vocat. *the leaf*,
fregit et intravit, & herbam suam ibidem
per erescens pedibus ambuland. conculcavit,
consumpsit, & alia, &c. ad tunc & ibidem intulit
&c. contra pacem,

A riot, an
unlawfull
assembly
and affray.

Iur. &c. quod, &c. vi et armis, &c. viz. baculis
gladiis, et pugionibus, et aliis armis tam in offensivam
quam defensivam apud B. prædict. in Comitatu
prædicto in alta via Regia ibidem sese riuose,
illicite assemblerunt et congregaverunt, et ad tunc
& ibid. riuose et illicite, in et super quandam
Gen. ad tunc et ibidem in pace Dei, & dicti Domini
Reg. existen. ad tunc et ibid. insulsum fecerunt
sum I. G. ad tunc et ibid. riuose et illicite verbera-
verunt, & male tractaverunt, ita quod de vita
desperabatur, et alia enormia ei ad tunc et ibidem
&c. ad, &c. et contra pacem, &c.

A Riot,
Rout, unlaw-
ful assembly
and affray.

Iuratores, &c. vi, &c. viz. gladiis, baculis,
culltellis, & aliis, &c. modo guerrino armis
&c. sese, illicite, & riuose, & riuose assemblerunt
runt et unanimiter congregaverunt, et in et super
T. P. Gen. in pace, &c. assultum, & affrayam fecerunt
& ipsum ad tunc & ibidem, verberaverunt, et
neraverunt, et male tractaverunt, ita quod de
ra, &c.

A riot, &c.
or driving
Waines
over ones
Ground.

Iur. &c. quod A. et B. de &c. & C. D. nuper
&c. die et Anno, &c. vi et armis, &c. apud, &c.
illicite, riuose, & riuose assemblerunt, et con-
gregaverunt ipsi sic assemblati, & congregati
et armis, &c. clausum cuiusdam *Johannis T. Gen.*
freger. & intraverunt, & quoddam plaustrum
fis onerat. super terram suam illicite, & riuose
injuste ad tunc, et ibidem coacti fuer. Anglice
drive over ad grave, &c. et contra pacem, &c.

Iur.

jur. &c. quod, &c. apud C. &c. in et super I. S. et ibidem in pace, & adtunc et ibidem in pace, & affraiam fecit, & ipsum I. S. adtunc et ibidem verberavit, vulneravit, & male tractavit, i. quod de vira, &c. et alia, &c. ad &c. contra pacem, &c. vi et armis, &c. apud, &c. in et super quendam I. T. unus Constabular. dicti Domini Regis de D. prædict. in Com. dicti adtunc et ibidem, in pace &c. et in executione officii sui, adtunc & ibidem insultum fecerunt ipsum adtunc et ibidem graviter verberaverunt, &c. Ita, &c. et alia, &c. ad &c. contra pacem, &c. vi et armis, &c. apud, &c. in et super quendam I. T. adtunc et ibidem existen. Const. de E. prædict. Comiratu prædicto in pace Dei, et dicti Domini Regis existen adtunc et ibidem insultum fecit, ipsum, &c. Ita, &c. et alia, &c. ad, &c. in contemptum, dicti Domini Regis et officiorum suorum ac contra pacem, &c. vi et armis, &c. apud, &c. in et super quendam I. T. adtunc et ibidem existen. Const. de E. prædict. Comiratu prædicto, ac alibi in Comiratu prædicto fuit & adhuc est communis Barrator, cadem, pacis dicti Domini Regis perturbator, et discordiæ inter subditos dicti Domini Regis seminator, et oppressor vicinorum suorum, adeo &c. diversas lites ac controversias inter Subditos dicti Domini Regis movit & excitavit ad magnam turbationem Legeorum dicti Domini Regis in exemplum aliorum, contra pacem, &c. &c. contra formam Statuti, &c. vi et armis, &c. apud M. in Comiratu prædicto inventi et capti fuerunt per A. B. Hundred de L. & per T. P. et F. M.

Cap. 16

Constabul. villa de. *M.* pred. seiplos tunc et ibidem
orioso et male gerentes, ac vagrantes contra
formam Statuti in huiusmodi casu inde editi
provis & contra pacem &c.

A Constable not paying Gaol money.

Iuratores, &c. quod, &c. apud *S.* predictum
Comitatu predicto existens. capital. Constabul.
Hundred de *B.* in Comitatu predicto pro uno
non nunc elapso, & non solvit pecuniarum summa
imposita super Hundred. predict. erga relevatorem
prisonar. in Gaola. Domini Regis Com. praedict.
Henrico F. et T. W. Generos. Thesaurer Gaule
predict. pro dicto anno sed voluntarie fecit de
fault. contra formam Statuti. &c.

Keepers of Hounds.

Iuratores, &c. quod, &c. vi & armis, &c. apud
pred. in Com. predict. sex canes venar. vocat. *Begles*,
custodiverunt & venar. fuer. et predict. *J. B. P. & G. H.* non habent nec eorum quilibet habet
terre sive tenet. annuum. valor. *xl s.* nec sint. nec eorum
alter est homo Spiritualis contra formam Statuti. &c.

An Officer not executing a warrant.

Iuratores, &c. quod, &c. existens Constabul.
Parochia de *G.* predict. apud *G.* pred. in Com.
pred. habens Warrant bene gerend. versus *T.*
& pro apprehensione ejusdem *T.* ad compertum
ad proxim. Generales Sessiones Pacis in Com.
pred. tenend. & ad hunc et ibidem voluntarie offi-
cium suum et Warrant. pred. omnino neglexit, & non
arrestabat ipsum *T. I.* in contemptu dicti Domini
Regis et contra pacem.

Churchwardens not paying Gaol money.

Iur. &c. quod, &c. *A. B. & C. D.* &c. existens Gardi-
an Eccles. de *C.* in com. pred. non solverunt summa
xx s. existens. debet. et sol. de parochia de *C.* pred.
com. pred. ante pred. primum diem *Marrij.* pro
maintenatione prisonar. in Gaole Com. pred.
prisonar. in Marefcallo. ac Banco Domini Regis
contra formam Statuti, &c. ac contra pacem. &c.

Iuratores

Iuratores, &c. quod &c. vi et armis, &c. apud &c. duas vaccas ejusdam *R. D.* lastrabat, & un. le quart lactis valent. i d. de bon. *R. D.* adtunc et ibidem invent. felonice fur. fuit cepit et asportavit contra pacem, &c. Cap. 16.
Milkers of
Kine

Iuratores, &c. quod, &c. *I. et J.* nuper de *L.* in Comitatu *M. Yeomen* Nuncii, Anglice *Messengers* Domini Regis decimo die, &c. apud *A.* in Comitatu *S. iiii l.* de quodam *T. G.* colore officiorum suorum extorsive et injuste ceperunt ad grave, &c. contra formam Statuti, et contra pacem, &c. Extortioners

Iuratores, &c. quod &c. existen. Forresterius Foreste sive Chacir de *K.* in Comitatu predicto adtunc apud *L.* pred. in Comitatu predicto colore officii sui predicti. tres denarios de quodam *E. W.* de *F.* in Comitatu predicti extorsive, injuste, et illicite cepit, ad grave, &c. contra formam, &c. Extortioners

Iuratores, &c. quod, &c. vi et armis, &c. apud *Sauil* in Comitatu predicto, illicite et extorsive cepit de quodam *T. B.* de *S.* pred. duos solidos legalis monete Angliæ ad exonerandum ipsum *T. B.* pro comparentia sua ad *Astias*. dicti Domini Regis in Comitatu predicto tent. die *Lune*, quinto die *Marii* annis supradictis adinquir. inter *E. D.* quer. et *E. W.* def. Vbi nullum tale feod. debet. per legem et postea. x s. extit. fuer. extra *Scracar*. Domini Regis pro defn. comparentie dicti *T. B.* in magnum dicti Domini Regis contemptum contra pacem, &c. ac contra formam Statuti. The like

Iuratores &c. quod, &c. *A B. K. N.* et *T. W.* e. *Rogues*, tati quatuordecim annorum, & amplius existen. supi & potentes corporis et patientis laboris non habentes terram vel tenementa nec viros nec excententes ullam legitimā Mercatur. artem, vel scientia n unde victum suum licite lucent. nec ju-

Cap. 16. Nam vitæ suæ rationem reddere valent capi
fuere apud M. in Com. præd. decimo die, &c. in
communes vagabund. Anglice vocat. *Rogues* in
corrigibiles recusant. laborare vivent. otiose
e. se malegerentes contra formam statuti in
in hujusmodi casu editi, &c. & contra pacem,
&c.

Against a
Constable
for not pu-
nishing
Rogues.

Juratores, &c. quod T. C. nuper de, &c. talibus
die et anno existen. Constabular. pacis parochie
de A. in Com. præd. apud A. præd. in Com. præd.
diversos vagabundos et mendicos, Anglice
Rogues and sturdy Beggars valentes per libera-
tem suam impunit. transire permisit in malum
exemplum aliorum officiorum contra pacem,
&c. ac contra formam, &c.

Erectors of
a Cottage.

Jur. &c. quod &c. quoddam Cottag. pro habita-
tione erexit & construxit & adtunc & adhuc pro
habitatione utitur, ubi re vera quatuor acr. terr.
secundum formam & ordinationem Statut. & de
terra mensuran. de libro Tinto suo & cum dicto
Cottagio continue occupand. non sunt nec un-
quam antea fuer. adject. aut assign. contra for-
mam Stat. &c.

Continuing
a Cottage.

Jur. &c. quod & deinde per spacium sex
mensium apud P. prædict. in Com. prædict.
quoddam Cottagium pro habitatione nuper erect.
et construct. adtunc & ibidem per spacium præ-
dict. pro habitatione voluntarie sustinuit Anglice
upheld, continuavit et manutenuit ubi revera
Quatuor, &c.

For conver-
ting a house
into a Cot-
tage.

Juratores, &c. quod &c. quandam domum nuper
erect. & construct. adtunc & ibidem in Cottagi-
um pro habitatione convertit et ordinavit, et
adtunc et adhuc pro habitatione per quendam
I. H. unius, ubi revera, &c.

Jura-

Juratores, &c. quod, &c. quoddam Cottagium pro habitatione erexit & construxit, ac quod quidam *T. S.* per spatium quatuor mensium ex-
tunc proxime sequent. præd. primū diem *Aprilis* anno supra dicto in dicto illo Cottagio inha-
bitat & pro habitatione sua utitur; ubi &c. per
prefat. *T. S.* nunquam, &c. Cap. 16.
For placing
a Tenant in
a Cottage.

Juratores, &c. quod, &c. recepit & locavit in unum Cottagium sub uno tecto quosdam *H. F. Labourer, A. B. Weaver,* in simul ad cohabit.
et ad tunc et adhuc *vix.* per spatium duorum
integrorum mensium in simul inhabitant contra
formam statuti, &c. For Inmates
into a cot-
tage.

Juratores, &c. quod, &c. recepit & locavit Quendam *T. G.* ad cohabitandum simul cum
dicto *A.* in uno Cottagio sub uno tecto apud *S.*
prædict. in Com. prædict. et ad tunc & deinde,
per spatium trium mensium ad tunc proxime
sequent. in simul cohabitant, &c. contra for-
mam statuti, &c. For Inmates
in a mans
own house.

Juratores, &c. quod, &c. Deum præ oculis suis non habens, sed instigatione diabolica seductus
machinansque dict. Dom. Regem et populum
suum callide, false, deceptive et proditorie de-
cipere et defraudare decimo die Novemb. an-
no Regni, &c. tertio, de injuria sua propria
absque aliqua legitima autoritate sive War-
rant. apud *W.* prædict. in Com. prædict. iniqui
lucri. Gra. tres pecias falsæ monetæ de Stanno
et alia falso metallo et mixto ad instar et ad
similitudinem bonæ et veræ monetæ et minime
dicti Domini Regis hujus Regni sui *Anglia An-
glice* vocat. *Shillings, or pieces of twelve pence,*
False, deceptive et proditorie fecit, fabricavit,
& contrefecit *Anglice, Did make and counterfeit,*
cc Coining
money.

Cap. 16. et easdem pecias false monete de falso metello mixto per ipsum, &c. Profertur false et proditorie fabricat et contrifact. *Anglice, Made and counterfeited* postea *xxx^o die M.* anno supradicti et diversis aliis diebus postea apud *W.* predict. et alibi in dicto Com. *S.* pro vera legitima et current monete hujus regni *Anglie* diversis ligeis et subditis dicti Dom. Regis *Anglie* false et proditor. solvit exposuit et utteravit in solutione *Anglice, Did pay and utter in payment,* in magnum prejudicium fraudem et deceptionem dicti Domini Regis et subdit. suorum et contra pacem, &c. ac contra formam Statuti, &c.

Scandalous
words a-
gainst the
King and
Queen,

Juratores, &c. quod, &c. Deum præ oculis suis non habens, sed instigatione diabolica seduct. ac fidem legiantiam et obedientiam suas erga dictos Dominum Regem, Dominam Reginam negligens et parum pendens septimo die J. An. *xxx^o apud C* predict. in Com. predict. malitiose ex imaginatione sua propria p. orulit et pronuntiavit quædam falsa, seditiosa et scandalosa verba et dicr. Dom. Rege et Domina Regina prout in his verbis Anglicanis sequitur, viz. *I should have gone forth as a petty Captain, but the Souldiers were but Beggars and Rogues, as the King is himself: For the King is Rogue, and a very wilde Rogue, and that since the Queen drew unto the King, she hath wrought nothing but treason against the Realm.* ad magnum dishonordictorum Regis et Regine, ac contra pacem, ac contra debitam legeanciam suam, et contra formam Statuti.

Speaking a-
gainst the
Scriptures

Juratores, &c. quod, &c. die et anno, &c. apud, &c. quædam verba falsa & scandalosa dixit
et

et pronuntiavit, viz. *That the Scriptures and that which by Preachers was delivered out of the Pulpit, were but matters of course to keep men in awe, and that the Scriptures were invented by men,* in contemptum dicti Domini Regis, et legum suorum et fidei Catholice, in malum exemplum aliorum, et contra pacem, et contra formam statuti.

Juratores, &c. quod, &c. vi et armis, &c. apud Robbery.
S. &c. in alta via Regia ibidem in quendam J. in pace Dei, et dicti Domini Regis ad tunc et ibidem existen. insultum fecit et ipsum J. in magno timore et periculo viæ suæ, ad tunc et ibidem posuit, ac eundem J. extra altam viam Regiam prædict. vi et armis &c. usq; ad quendam Boscum in S. prædict. in Com. prædict. prope altam viam Regiam præd. exist. ad tunc abduxit et sex libras in pecuniis numerat, unum anulum aureum valor. 6 s. et unam tunicam valor. 40 s. de bonis et cattallis et denar. prædict. J. a persona ipsius in J. in Bosco prædicto in S. prædict. in Com. prædict. ad tunc & ibidem prope altam viam Regiam prædict. die et anno supradicto felonice furat. fuit cepit et asportavit contra pacem, &c.

Juratores, &c. quod insultum fecit et decimam virgat. nigri velvet vocat. velvet ad valens 20 l. de bonis et cattallis T. existen. in quodam plauastro vocat. a Waine in custodia prædict. J. apud, &c. in alta via Reg. præd. a persona cujusd. J. felonice furat. fuit cepit et asportavit contra pacem, &c. Robbery.

Juratores, &c. present. &c. quod, &c. vi et Picking a
& armis &c. apud, &c. quinque solidos in pe-
cuniis numerat. in quadam crumena cujusdam purse.
A. B.

Cap. 16. *A. B.* adtunc existen. et invent. de bonis et denar. præd. *A.* clam et secrete, et sine notitia ipsius *A.* adtunc apud *M.* præd. in Com. præd. felonice, &c. felonice furat. fuit cepit et asportavit contra pacem.

Cutting a
purse.

Juratores, &c. quod, &c. unam crumenam valor 1 d. et 2 s. in pecuniis numerat. in eadem crumena tunc existen. de bonis et denar. cujusdam *I. C.* a persona *Iohan. C.* uxor præd. *I. C.* clam & secrete & sine notitia ipsius *Iohanne C.*, &c.

Pulling of
sheep.

Juratores, &c. quod vi, &c. apud, &c. 12 Oves matrices color. albi evelebat & lanam eorundem ovium a pell. ipsarum ad valen. 3 s. de bonis et cattallis cujusdam *I.* adtunc & ibidem invent. &c. felonice, &c. furatus fuit.

Fleaving of
sheep.

Juratores, &c. unum vervecem vocat. *one wether sheep*, color. nigri, occidit & interfecit & pellem ejusdem vervicis ad valen. 12 d. de bonis & cattallis cujusdam *T. C.* adtunc apud *B.*, &c. invent, &c. felonice furatus fuit cepit contra pacem, &c.

Stealing of
sheep.

Juratores, &c. quod, &c. vi, &c. apud, &c. unum ovem matricem color. albi pretii 12 d. de bonis & cattallis cujusdam *T.* adtunc et ibidem invent. adtunc et ibidem felonice furatus fuit cepit et effugavit contra pacem, &c.

For felonie.

Juratores, &c. quod, &c. unum Bibulum ad valen. 10 s. de bonis & cattallis cujusdam *I.* adtunc &c. cepit et asportavit contra pacem, &c.

Against
horse-stealers.

Juratores quod *T. T.* nuper d. &c. vi, &c. apud *C.* in Com. præd. unam equam color. *Bays* pretii 5 l. de bonis & cattallis *A. N.* adtunc & ibidem invent. ad tunc & ibidem felonice furatus fuit, cepit & effugavit contra pacem, &c.

Jura-

Juratores quod *R. L.*, &c. apud *L. &c.* domum mansionale cujusdam *E* burglarit. fregit & intra-
vit & unum annulū aureum Anglice *a gold ring*,
pretii 4 s. unum poculum argenteum, Anglice
a silver bowle; ad valentiam 20 s. de bonis &
carallis cujusdam *E.* ad tunc et ibidem felonice
et burglarit. furatus fuit cepit et asportavit con-
tra pacem, &c.

Cap. 16.
Burglary.

Juratores quod *A.*, &c. unum bovem, &c. et ef-
fugavit contra pacem, &c. et quod *T.* nuper de
&c. *Laborer.* sciens prædict. *A.* feloniam præ-
dict. modo & forma prædict. fecisse et perpe-
trasse dicto die et anno apud *C.* prædict. felo-
nice receptravit, hospitavit, & manutenuit contra
pacem, &c.

Felon and
accessary.

Juratores, &c. quod *A.* de *M.* in Com. præ-
dict. Deum præ oculis suis non habens, sed in-
stigatione diabolica seductus decimo die, &c.
infra domum mansionalem *T.* in quodam loco
ibidem vocato *N.* in quendam *J.* nuper de
M. prædict. ad tunc et ibidem existen. in-
sultum fecit et die et anno et loco supradictis
cum eodem *J.* detestabile viciū Sodomiæ et
coitus masculi Anglice vocat. *Buggery* fecit, com-
misit, et perpetravit, ac ipsum *J.* ad tunc et ibi-
dem necnon diversis diebus et vicibus antea et
postea contra debit. naturæ usum Sodomatic. vi-
tiavit, violavit et carnaliter cognovit, et contra
pacem.

Buggery.

Juratores, &c. quod, &c. cum quadam equa
ad tunc & ibidem detestabile et abominabile vi-
cium de *Buggery* felonice fecit, comisit, et per-
petravat, et eandem equam ad tunc et ibidem
contra debitum naturæ usum felonice et carna-
liter cognovit contra formam, &c.

Buggery.

Jura-

Cap. 16.

Juratores, &c. quod vi et armis, viz. &c. baculis, gladiis & pugnionibus domum mansionalem cujusdam *T.* apud *C.* præd. in Com. præd. circa horam nonam in nocte cujusdam diei felonice & et burglarit. fregit & intravit; ac eundem *T.* in eadem domo in pace Dei et dicti Dom. Regis apud *W.* præd. ad tunc existen. in magno timore & periculo vite sue posuit ac duas pecias panni lanei Anglice vocat. *Two pieces of white Kerse.* contin. 8^o virgat. ad valent: 15 s. e viginti marcas in pecuniis numerat. de bonis et catallis et denariis ejusdem *T.* apud *W.* præd. in Com. præd. in eadem domo ad tunc invent. felonice furatus fuit cepit & asportavit contra pacem, &c.

Juratores, &c. quod, &c. vi & armis &c. in quendam *T.* apud &c. insultum fecit ad quasdam res venenosas in quendam atrociam vocat. a *Percake*, ad tunc & ibidem felonice et proditorie posuit ac Commissas existen. negligens.

Juratores, &c. quod, &c. *A.* nuper de *S.* in comitatu predict. *T.* per *I.* Ar. unum Justic. Dom. Regis ad pacem in Com. præd. conservand. assign. Commissus fuit ad Gaolam dicti Domini Regis Com. sui *Glauc.* in Castro *Glauc.* pro diversis felonis per ipsum *W.* fact. et perpetrat. ibidem moratur quousque per debit. legis formam ab inde delibet. foret præd. *W.* vicesimo die *I.* Anno, &c. vi et armis, &c. apud Castrum *Glauc.* in Comitatu *Glauc.* præd. Gaolam præd. in qua detent. fuit. felonice et voluntarie fregit, et extra eandem Gaolam escapavit contra pacem, &c.

Breaking
Prison.

A Township
for escape of
a prisoner

Juratores &c. quod cum *I.* et *P.* &c. pro suspicionem cujusdam felon. & roberie per ipsum fact. & perpetrat. viz. d. eo quod ipsi vicesimo die, &c. apud *C.* in Comitatu *W.* in alta via Regia ibidem in

in quendam T. P. in pace Dei, &c. insultum fecer. et ipsum T. in magno timore, et periculo viæ suæ adunc et ibidem posuit, & iiii. l. in pecuniis numerat. de bonis & denar. pred. T. adunc et ibidem in alia Via Regia predict. felonice furat. fuer. ceperunt, & asportaverunt contra pacem &c. et ea de causa postea, scilicet vicesimo nono die &c. apud &c. per quendam T. W. capt. et arrest. fuer. et P. M. Cantuariensis Iustic. ipsius Domini Regis ad placit. coram ipso tenend. assignat. Iustic. dicti Domini Regis ad pacem in Comitatu predict. conservand. ac ad diversis felon. transgression. et alia Malefacta in eodem Comitatu perpetrata. audie. d. et terminand. assignat. Gaule, sive prisonam dicti Domini Regis in R. in Comitatu D. sub custode G. S. de R. predict. in com. predict. T. adunc custodi. eiusdem Gaule Domini Regis apud G. in Comitatu predicto commissi fuer. salvo et secunde sub custodia predict. custodiend. quo usque iidem T. L. et R. P. per debet. l. epis formam deliberent. Ac cum pred. T. et I. decimo die, et anno, &c. apud R. pred. Gaule, sive prisonam dicti Domini Regis, vi et armis, &c. felonice fregerint, et extra custod. dicti G. felonice evaserint, et ad lapsum i. verunt contra pacem, &c. et contra formam statuti &c. Et nihilominus per felon. predict. in forma predict. fact. vicesimo die, &c. iidem T. & P. per negligentiam Burgens. sive villar. de R. predict. & felon. predict. fugerunt, et seipso retraxerunt et in defectu boni custod. & gubernationis Burgens. sive villar. pred. adunc et ibidem escapiaverunt in in perniciosum exemplum aliarum vill. in huiusmodi casu imposterum delinquent. ac in contemptum veræ obedientiæ suæ legibus huius Regni Angliæ ac contra formam, &c.

Iur.

Cap. 16.
For a felonious rescue

Iuratores, &c. do. cum D. &c. apud &c. legitime arrestasset quendam H. nuper, &c. pro suspicionem cuiusdam feloniz et murtheri per ipsum facti et perpetrati. *Viz.* pro eo quod ipse idem H. decimo die, &c. vi et armis, &c. apud, &c. felonice procurtasset quendam D. nuper &c. ad interficiendum et murtherandum quendam R. de &c. qui quendam R. postea, scilicet viceesimo die, &c. per pred. D. felonice interfecit, et murtherat. fuit contra pacem, &c. quod predict. H. postea scilicet viceesimo secundo die, &c. pro felon. et murthered. predict. per pred. I. G. sic arrestat. seipsum vi et armis, &c. apud, &c. a custodia pred. I. felonice rescussit contra pacem, &c.

Witchcraft.

Iuratores, &c. quod &c. Dei timorem pre oculis non habens, sed instigatione diabolica seduct. quasdam malas, et diabolicas artes Anglice vocat. *witchcraftis, enchantments, charmes and sorceries,* nequiter, & diabolice apud H. &c. et exerciuit, et usa fuit ratione quarum quidam W. P. nuper, &c. in bonis et catallis suis multipliciter latus, et deterioratus existit contra pacem, &c. (vel sic) et incantamentum illis aptum et ibidem quandam suum de bonis et catallis cuiusdam C. destruxit et consumpsit contra pacem.

Witchcraft.

Iuratores, &c. quod &c. nequiter, diabolice et felonice apud &c. usa fuit ea intentione ad destruiendum quendam I. de &c. ratione quarum pred. I. in corpore suo multipliciter latus et deterior. existit, ac ac ipsum I. in magnum periculum vite sue, imposuit contra pacem &c. et contra formam, &c.

Witchcraft.

Iuratores, &c. quod, &c. et antea quedam incantamenta, ac quasdam malas et diabolicas artes, &c. ea intentione ad interficiendum et murtherandum quendam I. nuper de &c. ratione quarum exercitiorum

tionum usum malarum artium pred. I^o decimo nono die, &c. ad mortem suam advenit, et vitam suam amisit contra pacem, &c. et contra formam, &c.

Iuratores, &c. cum G. nuper, &c. conduct. &c. retent. fuit in serv. dicti Dom. Reg. per solut. 4 d. in nomine Scaccarii sui voc. *hi prest money* ad servand. dictum Dominum Regem tanquam Miles pregarans in partibus Boreal. versus inimicos, et Rebelles dicti Domini Regis sub conditione, et retentione cuiusdam T. Dueis. et capitani sui. Quod pred. G. decimo die, &c. apud I. &c. à Duce et capiano suo pred. sine eius Licen. felonice recessit, ivit, fugit, &c. seipsum retraxit usque ad D. &c. in malum et perniciosum exemplum al. in huiusmodi casu delinquent. et contra formam, &c. pacem, &c.

Iuratores &c. quod &c. Deum p^{re} oculis non habens, sed instigatione diabol. seduxit primo die &c. vi et armis, &c. unum horrendum cuiusdam R. apud &c. diversis granis in eodem horreo tunc existens ad valentiam 10 l. de bonis ipsius R. igne accendebat et horreum pred. et Grana pred. in horreo pred. tunc et ibidem existens. felonice et totaliter comburebat in malum exemplum totius populi, et contra pacem.

Inquisicio Capt. pro Domino Rege apud C. in Comitatu G. decimo die *Maii*. Anno regni Regis Caroli nunc *Anglia*, &c. 24. per Sacramentum A. &c. D. &c. prob. et legal. hom. Com. pred. contra W. S. Ar. un. Justic. dicti Domini Regis ad pacem in dicto comitatu conservand. assignat. qui dicunt super Sacramentum eor. pred. G. N. de N. in Com. G. Gen. sexto die *Aprilis*. Anno supradicto dū et legitime &c. pacifice possessionat pro diversis

Cap. 16.

Quædam
ignota per-
sona, is good

Force in
Lands.

For unlaw-
full posses-
sion.
Forcible
entry.

annis ad tunc ventur. de et in uno Messuag. cum
pertinen. in poch. de *N.* in Com. pred. ac in pos-
sessione sua continuavit quousque quidam *T. H.* de
L. in com. *G. Gen.* et al. malefactor. ignoti eodem
sexto die *Aprilis*, Anno supradict. vi et armis, viz.
baculis, cultellis, gladiis, et aliis armis, tam defensi-
vis, quam invasivis in Messuag. pred. cum pertinen-
tibus intraverunt, et ipsum *G. H.* inde termino
predicto nondum finit. expulser. et manu forti eje-
cerunt et eund. *G. H.* inde sic expulsū et ejectum ab
eodem Messuagio cum pertinentibus a pred. sexto
die supradicto usque diem captionis huius inquisi-
tionis manu forti extratenerunt, et adhuc extra-
tenent in magn. pac. Dom. Regis perturbationem,
ac contra formam diversor. Statut. in huiusmodi
casu edit. et provis. In cuius rei, &c.

Iuratores, &c. quod *A. B.* &c. et *T. C.* de *L.* &c.
talibus die, &c. apud *N.* &c. in duas acras ter. ar-
rabil. cum pertinentibus jacen: in pred. ad tunc
existen. liberum tentum *R. Gen.* vi et armis ac
manu forti et illicite super possessionem cuiusdam
T. H. firmar. dicti *R.* intraverunt, & ingressum se-
cerunt, et predict. *T. H.* vi et armis pred. et ma-
nu forti et illicite tunc inde expuler. et ejecerunt et
pred. *Ric.* vi et armis, et manu forti inde dissei-
fiverunt, et prefat. *Ric.* sic inde disseisit. a predico
die et anno usque diem captionis huius Inquisitionis
de predictis duabus acris terre, vi et armis, et ma-
nu forti, et illicite extratener. et adhuc extrate-
nent. in contemptu dicti Domini Regis, et ad gra-
ve damnum ipsius *R.* et contra pacem et contra
formam, &c.

Iur. &c. quamplures alii malefactores, et pacis
dict. Dom. Regis perturbatores ignoti decimo die
&c. vi &c. viz. baculis cultellis et aliis armis apud
S &c.

S. &c in duas acr. prati jacentes in S. &c. ad tunc in possessione cujusdam R. et ad tunc existen. liberum Tenementum, I. & T. intraverunt, et pred. R. à possessione dictarum duarum acr. prati ad tunc et ibidem egerunt, et pred. I. & B. iniuste et sine iudicio disseisivit, et pred. R. à possessione dictarum duarum acr. prati ad tunc et deinde usque vicefirmum diem ejusdem mensis vi. et armis manu forti extratener. et adhuc extratinent contra pacem, et contra formam, &c.

Iur. &c. quod fuit inhabirans Parochia de F. &c. et elect fuit, in Officio supravisoris altorum viarum Regiarum infra Parochia pred. pro uno anno extunc proximè sequen. pred. tamen I. officium pred. contemnens à die predicto usque ad hoc tempus, omnino voluntarie neglexit contra formam et Statut. &c.

For not executing the work of Supravisor,

The like

Iur. &c. elect. nominat et appunct. existen. esse unum Supravisor. pro aliis viis Regiis pro uno &c. infra Paroch. predict. ad nullum tempus infra predict. annum laboravit, nec laborare causavit inhabitantes parochia predicta pro reparatione et emendatione altorum viarum Regis predict. secundum formam Statuti per quod altæ viæ Regis infra parochiam predictam maxime ruinosa et irreparata existunt ad grave damnum inhabitantium de D. predict. et aliorum legegum dicti Domini Regis per viam illam transentium contra pacem et contra formam.

For such persons returned by the Justice of Peace for not working at the Highway,

Iuratores quod undecimo die &c. present. fuit per A. B. W. C. supravisores altorum viarum Regiarum infra parochiam et villam de D. in comitatu predicto coram W. Ar. un. Iustic. dicti Domini Regis ad pacem in comitatu predicto conservand. & per ipsum modo present. quod I. &c. habens

M m a

et

Cap. 16.

et occupans unum carrucat. terræ Anglice voc. *A plow Land* infra Parochiam de *C.* pred. ad nullum eorum sex dierum in Mense *Maii* ult. præterit. nominat et appointuat per predict. *L* et *P.* Supra-visitores altorum viarum Regiarum infra dictam parochiam prorsus invenit aut misit aliquem currum instruct. Anglice *Waine or Cart furnished*, equis, bobus, et aliis animalibus et necessariis instrumentis secundum morem patriæ ibidem erga emendationem et reparationem dictarum viarum Regiarum, aut eorum alicujus sed voluntarie fecit default contra formam Statuti, &c.

For divers neglecting to work or find one to work at the high ways.

M^d &c. fuit &c. quod *A. B.* et *C.* &c. existen. inhabitant. Parochiæ de *C.* predict. &c. ad nullum et (ut ult.) non invener. aut miser. aut aliquis eorum invenit aut misit aliquemabilem hominem cum necessariis instrumentis secundum morem patriæ ad laborandum erga, &c. sed voluntarie fecerunt default et quilibet eorum fecit default contra formam Statuti. &c.

For not working with a plough.
For not repairing the highways.

Juratōres, &c. quod habens et occupans unum carrucat. terræ, &c. (vide ante.)

Juratōres, &c. quod inhabitantes de &c. per spatium unitus mensis et amplius nunc ultim. præter. apud *F.* predictum in comitatu prædicto permittunt, et adhuc permittunt altam viam Regiam ibidem ducunt. a *C.* in comitatu prædicto ad *D.* in Comitatu prædicto esse valde ruinofam irreparat. et in magno de casu. in defectum reparationis per default Inhabitantium de *F.* pred. in com. prædicto ita quod Legei dicti Domini Regis per viam illā itinerantes sine magno periculo viarum suarum ire et redire nequeant ad grave nocumentum Subditorum dicti Domini Regis contra pacem, &c.

Jura-

Juratores, &c. quod, omnes legei dicti Dom. Regis a tempore cujus contrarii memoria hominum non exist. usi fuerunt habere viam communem et passagium tam pedestrem quam equestrum cum carriagiis equor. et cattellor. suorum in F. in Com. præd. per quandam venellam ducen. a villa de F. in Com. præd. usq; ad villam de W. &c. qui quidē venel. inhabitantes et tenentes de W. continue et a tempore in tempus reparare, escuare et emendare debent. solebant et usi fuer. præd. tamen inhabitantes pro tal. die, &c. venel. ill. in tal. de casu et ruina exist. permiser. quod præd. legei dicti Dom. Regis per venellam illam laborare transire et itinerare non possunt absque magno periculo vitarum suarum et cattallarum suarum, et perditione bonorum suorum ad grave damnum ipsorum legiorum dicti Domini Regis ac in exemplum malum aliorum inhabit. et contra pacem.

Juratores, &c. quod cum quædam communis via a tempore cujus contrarii memoria hominum non existit. fuit in quodam loco vocat. *N.* in Comitatu prædicto ducen. ad quandam villam mercatoriam vocat. *A.* in Com. præd. a vill. mercator. vocat. *B.* in Com. præd. per quam quidem viam legei dicti Dom. Regis nunc a tempore quo non existat memoria hominum hactenus usitat. fuer. et consueverunt transire et laborare cum carregiis. planstr. et aliis carriag. a villa de *A.* præd. in Com. præd. usque ad villam de *B.* in Com. præd. quod quidem *A. B.* de, &c. die decimo, &c. vi et armis, &c. apud, &c. viam præd. in *N.* præd. in Com. præd. inclusit et obstruxavit et ill. sic inclus. et obstruxat. adhuc tenet per quod legei dicti Dom. Regis per

For stopping up the highway.

Cap. 8.

For suffering
an escape after
an arrest.

viam præd. cum carrectat. plaustr. et carriagiis
suis transire et laborare nequeant, ad grave dam-
num disturbance[m] et commune nocument. le-
gionum dicti Domini Regis nunc et contra
formam, &c. contra pacem, &c.

Juratores, &c. quod, &c. existen. un. Decen.
Ducat. *Lanc.* in Com. præd. nono die, &c. virtute
Warrant. inscript. *W. Armig.* un. Justic. dicti Do-
mini Regis ad pacem in Com. præd. conser-
vand. assign. eidem *J.* direct. apud, &c. cepisset
et arrestasset quendam *T.* nuper, &c. ad respond.
eis quæ ex parte dicti Domini Regis sibi obji-
cientur; præd. tamen *J.* decimo die, &c. apud,
&c. ipsum *T.* adtunc et ibidem in custodia sua
existen. ira negligent. custodivit quod pro de-
fectu bonæ & sufficient. custod. idem *T.* a præd.
J. adtunc et ibidem evasit et ad largum ire e-
scapiavit in malum et perniciosum exemplum
aliorum subditorum dicti Domini Regis, ac
contra pacem.

For making
an escape
after arrest.

Juratores, &c. quod, &c. existen, &c. [ut ult.]
præd. tamen *J.* decimo die, &c. apud, &c. vi et
armis et illicite se a custodia præd. *T.* rescussit et
evasit contra pacem.

For the like

Jurat. quod cum *J. Armig.* unus Justic. &c. per
Warrant. suum geren. dar. &c. mandasset Con-
stab. de, &c. capere & apprehendere corpus *T.* de
&c. et ipsum salvo ducere coram ipso *J.*, &c. et
W. existen. Constab. de &c. decimo die, &c. ex-
tunc. proxim. sequen. apud, &c. virtute War-
rant. præd. arrestabat præd. *T.* secundum tenor.
Warrant. præd. præd. tamen *T.* Warrant. præd.
minime curans sed contemnens adtunc et ibi-
dem vi et armis post arrestationem præd. sese
a custodia prædict. Constab. rescussit et ad lar-
gum

For an escape of a felon being delivered by a Tithing-man to others.

For a rescue

For hunting in a forest.

gum ivit contra pacem et contra formam, &c. Juratores, &c. quod cum I, Decen. de W. præd. in Com. præd. talibus die et anno apud W. præd. in Com. præd. virtute officii sui præd. cepisset quandam personam ignot. et vagaran. pro suspicion. felon, viz. pro furatione unius pecii panni linei valor. 10 l. de bonis et catallis cojusdam W. W. et eam personam ignot. de felon. præd. cap. commisit. & deliberavit quibuld. R. et T. inhabit. vill. de W. in Com. præd. per ipsos salvo et secure custodiend. de suspicion. feloniz prædict. prædict. tamen R. et T. postea scilicet præd. die et anno annis supradict. apud W. præd. in Com. præd. præd. persona ignota de suspicion. feloniz præd. extra custod. eorum ad largum quo voluit pro defectu bon. custod. ne negligenter permiserunt contra pacem.

Jur. &c. quod cum T. Armiger, unus Justic. dicti Domini Regis ad pacem in Com. præd. conservand. assign. mandasset cuidam R. Constabular. Decenar. de G. in Com. præd. quod caperet quandam J. nuper de &c. et eundem J. coram dicto Justic. ducifaceret ad respondendum super iis quæ ei ex parte dicti Domini Regis objicerentur, virtute cujus Warrant. idem Constabular. talibus die & anno apud W. præd. in Com. præd. cepit & arrestavit præd. J. & ipsum in custodia sua habuit quousque postea scilicet eodem die et anno apud W. præd. in Com. præd. præd. Johannes vi et armis, viz. cum quadam bidente in ipsum Constabular. insultum fecit et ipsum verberavit et male tractavit et ipsum a custodia Constabular. præd. rescussit et evasit contra pacem.

Juratores, &c. quod I, &c. circa horam deci-

Cap. 16, mam in nocte, &c. aggregatis sibi quam pluribus aliis malefactoribus, et pacis dicti Domini Regis perturbatoribus ignotis vi et armis, viz. &c. Foresta, &c. in Com. præd. injuste fregerunt et intraverunt et Damas ipsius Domini Regis adtunc et ibidem in Foresta præd. cubantes et depascentes cum quibusdam canibus vocatis *Grey-hounds*, injuste venati fuerunt et chassaverunt, et unam Damam *Anglice* a Doe, adtunc et ibidem existentem cum præd. canibus riotose et injuste occiderunt et asportaverunt contra formam statuti.

In a Park. Juratores, &c. quod *T*, *T* et *B*, &c. (ut supra) Clausum et Parcum inclusum cum pall. cujusdam *T*. apud, &c. et Damas ipsius *T*. adtunc et ibidem in Parco præd. &c. ad grave damnum ipsius *T*, &c.

With a net. Quibusdam Canibus & uno rete vocato A *Buck-stall*, quod in Parco præd. detentam, &c. et unam Damam, &c. cum rete prædicto riorose, &c.

For rescuing Jur. &c. quod cum quidam (*B*, *C*,) deservientibus *J*. decimo die, &c. quædam aver. viz. **cattel taken** tres vacas cujusdam *T*. Gen. in quodam Clauo **damage** ipsius *J*. apud, &c. depascentes, et damnum **Feasant,** ibidem facientes legitime distrixissen. quod **A Riot,** præd. *T*. nuper, &c. *J*. nuper, &c. et *M* nuper, &c. aggregatis sibi quam pluribus aliis malefactoribus & pacis dicti Domini Regis perturbatoribus ignotis modo querrino arraiat per instigationem et procurationem præd. *T*. eodem decimo die &c. seipsos apud &c. illicite riorose et routose assemblaverunt unanimiter & congregaverunt ea intentione ad pacem dicti Domini Regis perturband. et adtunc et ibidem servien-

tes præd. I. aver. præd. et damnis præd. ad im-
percand. agentes contradixerunt et disturbave-
runt et impediverunt ad grave damnum ipsius
I, et contra pacem.

Juratores, &c. quod cum I. et B. &c. se- For the like
cundo die, &c. apud, &c. per mandat. cujusdam I,
magistri sui cepissent et distrinxissent. sex bo-
bicul. et quatuor juvenas diversorum colorum
de bonis et catallis ejusdem T, adtunc et ibi-
dem invent. et herbam præd. I. depascend. et
conculs. eas quousque Parcum opertum — de
D. effugare voluissent ibidem reman. quousque
per debit. legis formam ab inde deliberent. quod
præd. T. nuper, &c. decimo die, &c. vi et ar-
mis, &c. apud, &c. in dictos I et B, servientes
dicti I, insultum fecit et dictos bobiculos et ju-
venas sic capt. et distringat. a custodia dicto-
rum I et B, adtunc et ibidem injuste cepit et res-
cussit contra pacem.

Jur. quod &c. apud &c. vi et armis in quandam For Rape,
I, de &c. virginem ^{xvixem} annorum in pace Dei
et dicti domini Regis adtunc et ibidem existen.
insultum fecit et eandem I, contra voluntat. ip-
sius I, felonice rapuit, et carnaliter cognovit
contra pacem, et contra formam statuti.

Juratores, &c. quod, &c. trigesimo die, &c. et For the like
multis aliis diebus continue post dictam diem a Trade.
per spatium duorum mensium integrorum ex-
tunc proxime sequentium, viz. usque ad de-
cimum diem I. anno supradicto apud, &c. quan-
dam artem sive mysterium Anglice dict. *Merce-
rie*, illicite pro lucro suo proprio usitavit et ex-
ercivit tunc ibidem vendendum diversis mer-
cimonis Anglice vocatis, *Mercery wares*, di-
versis dicti Domini Regis Legibus et Subditis,
ubi

Cap. 16. ubi revera idem *A.* nunquam fuit in dicta arte sive mysterio educatus tanquam Apprentic. per spatium sep. an. nec idem *A.* eandem artem sive mysterium præd. duodecimo die anno secundo, &c. usitavit aut exercivit in magnum dicti Domini Regis contemptum, et contra formam statuti.

For taking
an Appren-
tice contrary
to the sta-
tute.

Juratores, &c. quod *A.* nuper, &c. *Broad-weaver*, talibus die et anno, et continue post dictum diem per spatium trium mensium extunc proxime sequentium apud *N.* præd. in Com. præd. quendam *W.* fil. *W.* sen. de *D.* in Com. præd. *B.* illicite et pro lucro suo adtunc & ibidem tanquam Apprenticu suum cepit habuit et retinuit, ubi revera præd. *W.* seu pater præd. *W.* junioris, nunquam habuit terr. tenem. seu alia heredit. clari anni valor. sexaginta solid. ad minus de statu heredit. seu libero tenemento in magnum contemptum dicti Domini Regis, ac contra formam &c.

For fore-
stalling.

Jur. &c. quod, &c. decimo die, &c. apud, &c. emisset totum hordeū crescens super viginti ac-
ter. apud &c. ad intentionem dictū hordeum re-
vendend. contra formam statuti, et contra pa-
cem.

For regra-
ting.

Juratores, &c. quod *A.*, &c. *Merchant*, deci-
mo die, &c. ac diversis diebus et vicibus tam an-
tea præd. decimum diem *M.* quin post eundem
diem decimum apud &c. regratavit et emit de
diversis personis igitis, ceatun Quarter. frum-
menti, et viginti pondera Salis et Bige quod a-
libi ea vera iatatione ut idem *J.* præd. cent.
quarteria frumeati, et viginti pondera salis per
ipsum sic empt.

For taking
of Pheasant

Juratores, &c. quod &c. in quodam loco infra
Par-

Paroch. de *K*, vulg. vocat. *A*, qui quidem locus
tunc fuit liberum tenementum *A B*, de &c. nec
quam fuit in aut de *Wartenna* ipsius *G*.
prop. duos *Phasianos*, et decem *Perdices*, cum
quibusdam reticulis, et aliis ingenuis, valor. *xxs*.
tunc ibidem cepit, occidit, et asportavit sine a-
liquis assensu agreeamento et speciali licenc.
dicti *A*. in hac parte habent. aut author. obtentis
in dicti Domini Regis contemptum, ac contra
formam statuti.

Juratores, &c. quod vi & armis, &c. Clausum *For taking*
prenobilis viri *T*, Comitis *Salopie* apud, &c. *Hawkes in*
fregit et intravit, et quatuor aucepsities Anglice *the nest*.
Sparrow-hawkes & Muskets, ad valent. *xs*.
de bonis et catallis præd. Com. in quodam loco
vocat. *le Chase*, apud, &c. ad tunc et ibidem in
Nido, Anglice *the Nest*, existen. in Clauso præ-
dicto cepit & asportavit, & alia enormia eidem
Comiti intulit ad grave, &c. contra formam et
contra pacem, &c.

Jur. &c. quod cum *R*. nuper, &c. in Servitia *Against a*
T, Magistri sui exist. et præd. *T*. talibus die et *servant for*
anno apud *L* præd. deliberasset eidem *R*. *xii l*. *imbezeling*
bonæ et legalis monetæ *Anglie* ad custodiend. *goods*.
idem tamen *R*. in servitia præd. *T*. magistri sui
existen. leges et statuta hujus Regni *Anglie*
non curans nec poenam inde verens sine assensu
vel mandat. præd. *T*. Magistri sui apud *L*. &c.
die, &c. præd. *xii l*. ad usum suum proprium se-
lonice convertit ea intentione ad furand. præd.
xii l. contra formam et pacem, &c.

Juratores, quod cum *A*, &c. talibus die et *The like*.
anno, &c. in domo mansionale ipsius *A*, apud, &c.
deliberasset cuidam *E*. de &c. tunc servientes
ipsius *A*. pro uno anno integro retent. ac a tatis
xix.

Cap. 16.

xix annorum existen. x l. in p. cunctis numerat. de bonis ipsius A ea intentione ut idem E eadem falsam vocat. dicitur ad usum predicti A tunc Magistri sui, idem E dicto decimo die &c. (Apprenticius dicti A tunc non existen. apud E pred. in comitatu predicto, à dicto Magistro sui, una cum predict. x l. dicti A tunc Magistri sui malitiose et felonice discessit, abiit et aufugit, ea intentione ad furand. dict. x l. contra fiduciam in eo per prefat. A tunc Magistrum suum repositam et collocatam, et ad inde dictum A Magistrum suum predictum defraudand. formam, et contra pacem, &c.

For uttering
false money.

Iuratores, &c. quod &c. habens in manibus suis quinque pecias falsæ monete ad imaginem et similitudinem peciarum monete Angliæ vocat. T. valor. cujullibet eorum sex denariorum, et sciens easdem de falsis metallis factas, fabricatas, contrafactas et cunatas esse. Dum pro oculis suis non habens sed instigatione diabolica seduct. machinans dictum Dominum Regem et papalum suum calide fraudulose deceptive et proditorie decipere et defraudare ex injuria sua propria, absque aliquo Warrant. sive concessu Regiæ Majestatis concessu, dictas quinque pecias falsæ monete pro iniquo lucro et advantagiis suis diversis Legibus dicti Domini Regis pro vera legitimis et current. moneta dicti Domini Regis regni sui Angliæ apud tal. die &c. falsæ, deceptivæ, et proditorie deliberavit et utteravit in solutione diversis Legibus dicti Domini regis contra pacem, ac contra formam, &c.

For clip-
ping of mo-
ney.

Iuratores, &c. quod talibus die &c. apud &c. viginti pecias argenti vocat. *S' illings of Silver* bonæ et currentis et legalis monete Angliæ et Coganii Domini regis falsæ, felonice, et proditorie impii

impii lucti gratia, torundit diminuit, et filavit, ita
quod per ronsionem, diminutionem et filationem
illam quælibet pecias argenti inde in debito suo
condere et valore diminua batur et deterioratur, et
monetam illam in forma predicta ronsam diminu-
am et filatam diversis Legeis dicti Domini regis
apud W. pred. et alibi in Comitatu predicto fran-
dulose, deceptive, et proditorie exposuit et utte-
ravir in deceptionem diversorum et Subditorum
dicti Domini regis contra formam et pacem,
&c.

Juratores, &c. quod I. P. nuper &c et R. nuper, For Man-
&c. talibus die et anno &c. vi et armis &c. apud slaugher
&c. in quendam G in pace Dei et dicti Domini and access-
regis ad tunc et ibidem existen. insultum fecerunt rie,
et pred. I. cum quodam solcasiro valor 2 s. quod
ipse idem I. in manu sua dextra ad tunc et ibidem
habuit et tenuit pred. G super anteriorem partem
capitis ipsius G usque ad cerebrum, ad tunc et ibi-
dem felonice percussit et dedit ei ad tunc et ibi-
dem unam plagam mortalem, de qua quidem pla-
ga mortali idem G ad tunc et ibidem instanter obi-
it, et quod pred. R dicto vicefimo die &c. vi et ar-
mis pred. apud S. pred. in Comitatu predicto felo-
nice fuit præsens compertiens pred. G. ac auxili-
ans, abettans, assistans, co. rrans, et manuteneus
pred. I. ad felon. et homicid. pred. modo et forma
pred. faciend. et perpetrand. et sic pred. I. et R.
prefat. G apud S. pred. in comitatu predicto mo-
do et forma pred. felonice interfecerunt contra
pacem, &c.

Juratores, &c. quod I. &c. talibus die et anno The like, se
&c. vi et armis, &c. apud &c. in quendam H. in descendendo.
pace Dei et dicti Domini regis ad tunc et ibidem,
existen. insultum fecit super quo idem I. in quan-
tum

Cap. 16.

tum poruit usque ad quandam portum domus
jussu P. ad tunc et ibidem clausum existens
giebat ultra; quem quidem portum idem H. ab
que vitæ suæ periculo manifeste evadere non potuit
per quod H. cum quodam poste vocat. a door
Barre, quem ipse in manibus suis ad tunc et ibidem
habuit et tenuit pro salvatione et defensione vitæ
suæ præfat. I super caput ipsius ad tunc et ibidem se
defendendo percussit dans ei quandam plagam
mortalem, et præd. I. ad tunc et ibidem instant
oblit, et sic præd. I. die ex anno supradict. apud
E. præd. in Comitatu prædicto præfat. I se defen
dendo interfecit et non aliter, &c.

For not
coming to
Church.

Iuratores, &c. quod &c. qui tercio die &c. fuit
ætatæ sexdecim annorum et amplius; et non ac
cessit Anglice *did not repair* Ecclesiæ sive Paro
chial præd. nec alicui alii Ecclesiæ Capellæ aut u
suali loco communis precatæonis, nec ibidem fuit
tempore communis precatæonis ad aliquod tempus
infra duodecim menses ex tunc proxim. sequen
tes sed abstinuit ab eisdem per spacium præd. du
odecim mensium contra formam Statut. &c.

For forgery.

Iuratores, &c. quod &c. talibus die & anno &c.
apud &c. ex sua propria mente falsa imaginatione
conspiratione et covine, quoddam falsum factum
viz quandam Indenturam per quam quidem T. Bar
ganizaret et venderet omnes illas terras et Tene
menta vocat. &c. cum pertinentibus in T. præd. in
com. præd. cuidam I scient. subtiliter et false fa
bricavit, et fecit et eandem Indenturam tunc et ibi
dem pronunciavit, publicavit et legi fecit, et in
evident. ostendit ad molestandum, destruendum,
et perturbandum statum, possessionem, titulum, et
interesse præd. T. inter. & Tenement. prædict.
per quod idem T. possessione titulo & interesse suæ
cum

For a rebel-
lion in the
realm

For keeping
a house of
unlawfull
games

cum pertinentibus multipliciter pergravat et ve-
xat existit. indicti Domini Regis contempti et
ipsius T. dampnum non modicum et gravamen ac
contra formam statuti.

Juratores quod &c. cum aliis malefactoribus
ad numerum triginta personarum et ultra a-
pud, &c. talibus die et anno, &c. modum novæ
insurrectionis et rebellionis modo guerrino ar-
raiat et invicem assensiblar vi et armis &c. illi-
cite ex eorum autoritate propria felonice pra-
ctizaverunt et pouserunt in usum Angli. *did put*
in view, ad defalcandum et diminuendum pre-
tium grani brassii, Anglice *Malt*, et quod iidem
A et B, &c. tunc et ibidem requisiti, fuer. per
A B, Armig. tunc unum Justic. ipsius Dom.
Reg. ad pacem, in Com. præd. conservand. affig.
per proclam. in nomine ipsius Dom. Reg. ad dil-
cedendum ab inde nec non ad retorn. in pa-
cifico modo ad eorum habitationem et domus
mansionales a quibus venerunt qua quidem
proclam. non obstant. iidem A B, &c. post requisiti-
onem illam per eandem proclamationem fact.
felonice ibid. mansuerunt et moram fecerunt per
spatium unius horæ integræ in magn. perturb. pa-
cis dicti D. Regis, et contra form. statuti, & in
magn. contempt. ipsius Dom. Regis, et contra
pacem.

Jur. &c. quod J. D. de &c. *Inne-holder*, tali-
bus die & anno, ac diversis aliis diebus et vici-
bus tam antea quam postea apud E præd. in
Com. præd. communem domum Lusoriam, An-
glice *a common House of Play*, pro lucro com-
modo et advantage suo proprio illicite custodi-
vit & manutenuit & diversos subditos dicti Dom.
Regis ad dom. mansional. suam confluen. & acce-
den.

Casp. 16.

den. ad diversos jocos et lufos illicit. viz. apud al. Carr. Pift. & Tabel. Anglice, *Cards, Dice, and Tables*, ludere permiffic in malum exemplum aliorum, ac contra formam, &c.

Aginst
Constable
for not pre-
fenting the
names of
Recufants.

Jur. &c. quod A B. nuper &c. talibus die et anno, &c. existen. Constab. pacis Paroch. de D. in Com. præd. apud D. præd. in Com. præd. Officium suum præd. neglexit et non presentabat nomina Recufan. infra Paroch. præd. ad general. Session. pacis in Com. præd. ten. in malum exemplum, &c. ac contra pacem.

For making
a Broad-
cloth above
28 yards.

Juratotes, &c. quod W. nuper, &c. talibus die & anno, &c. apud S. præd. in Com. præd. unum pannum latum Fimbriat. Anglice vocat. a *broad liffed white*, continens in longitudine triginta et unum virgat. fraudulenter et deceptiva ad tunc et ibidem fecit et fabricavit in magnum contemptum dicti Domini Regis, ac contra formam, &c.

For want of
meafure.

Juratotes, &c. quod A nuper, &c. *Clothier*, talibus die et anno apud W, &c. unum pannum latum, vocat. A *broad liffed white*, deficiend. unum librat. de suo debito pondere ad tunc et ibidem fecit et fabricavit in contempt. &c. et contra formam.

For not
prosecuting
a hue and
cry.

Juratotes. quod R. &c. existen. Decenar. de W. præd. in Com. præd. talibus die et anno quibus inquisitione facere in locis suspect. infra decenar. suam pro quibusdam hominibus ignot. felon. Dom. Regis qui pro quibusdam felon. et roboris per ipsos perpetrat. prosequuti fuerint super hutesiam et clamorem nec eandem hutesiam et clamorem sequi voluerint de parochia in parochiam juxta formam statuti inde ediri sed in officio suo exereendo, &c. minus

te pide

repide gesserit in contempt, &c. et contra formam.

Juratores, &c. quod *T* nuper, &c. (talibus die et anno) apud *T* pred. in Comitatu predicto quandam peciam Regiæ viæ prope domum suam mansio nal. continent, &c. cum sepe et fossa adtunc et ib. inclusit et obstruxit et eandem peciam Regiæ viæ inseparalitat. tenet et custod, et pro gardino utitur ad damnum non modicum Legiorum Domini Regis, per viam illam transeun. contra formam, &c.

For inclosing a Highway.

Juratores, quod *T*, nuper, &c. (talibus die et anno) apud *P* pred. in Comitatu predicto panes suos precii cujuslibet eorum unius denarii de integro frumento ponderan. nisi duodecim uncias ad vendend. subd. Domini Regis fraudulenter et deceptive adtunc et ibidem fecit et in magnum gravamen subdit. dicti Domini Regis, ac contra formam diversorum Statut.

For making small bread.

Juratores quod *T* nuper de, &c. talibus die et anno vi et armis, &c. apud *F* pred. in comitatu predicto in et super quandam *P* in pace dei et dicti domini regis adtunc et ibidem existen. insultum fecit & ven. ahenam, Anglice *a brass* pan, quem ipsum idem *T* virtute Warran. *H* mil. vic. com. prid. arrestasset ex possessione et manibus predicti. vi et armis predictis, diripuerit et rescussaverit contra formam, &c. et contra pacem, &c.

For rescue after an arrest of Goods.

Jur. &c. quod *T* nuper, &c. talibus die et anno, &c. vi & armis, &c. apud *I* pred. in com. pred. clausum cujusdam *T* fregit et intravit et centum ovres matricis gravidas, Anglice *Ever great with young*, et decem pecudes. Anglice *beasts* de bovis et catallis predictis *T* in clauso predicto exi-

For chasing Cattle.

Cap. 16.

Hen. et depascens adunc etiam chasavit su-
gavit et lacerasse fuit et predicti centum ayce et
decem pecudes adunc ibidem injuste impersa-
vit ad grave damnum ipsius S, ac contra pa-
cem, &c.

For taking
cattle un-
lawfully.

For turning
a water-
course.

For not aid-
ing a Con-
stable.

For stop-
ping up a
sink in a
Market-
town.

Juratores, &c. quod A &c. talibus die et anno
apud A pred. in comitatu predicto domum et
stabulum cujusdam I apud B pred. in comitatu
predicto adunc et ibidem vi et armis, &c. fre-
gib et intravit ac unam equam color. de
bonis et cattallis ipsius I adunc et ibidem in-
venti injuste cepit, abduxit, et chasavit ad gra-
ve damnum ipsius I, ac contra pacem, &c.

Juratores, &c. quod R, &c. talibus die et anno
apud T predict. in comitatu predicto, quendam
rivulum ibid. vocat. C, in quodam loco ibid. vo-
cat S, ex suo recto et debito cursu divertebat et
adhuc divertit ad grave damnum inhabitant. de
B pred. contra formam, et contra pacem, &c.

Juratores, &c. quod A et B nuper, &c. talibus
die et anno apud B pred. in comitatu predicto,
contempserunt et recusaverunt ad auxiliand. R
adunc constabular. pacis ibidem ad conservan-
pacis licet saepius requisit. fuer. per pred. R in
malum exemplum aliorum ac contra pa-
cem, &c.

Juratores, &c. quod I &c. talibus die et anno
vi et armis, &c. apud C pred. in comitatu pre-
dicto quendam canalē Anglice vocat. Sinker
Gutter, ducent. ex domo mansional. cujusdam R
ib. per domum ipsius I, pro omnibus necessariis
ipsius R, per illum canal. curren. et conveyant.
minis juste obstupavit et impedit ad grave dan-
num ipsius R et ad magnam gravamen aliorum
Ligeorum dicti domini B: ibid. inhabitant.
et contra pacem, &c.

Juratores,

Juratōres, &c. quod T et E, &c. etiam Gar-
dian. Ecclesie parochialis de A. prae. in comita-
tu predicto (talibus die et anno) nec unquam
postea quousque non elegerunt constitueri. sive
nominaverunt supravisor. altorum viarum regia-
rum infra parochiam de A. prae. quod haec via
regie apud A. prae. in com. prae. in magnum
ruinam acider. ad gravamen et commune nocu-
mentum comitor. Ligeor. dicti domini Regis per
viam istam prae. transeant. contra formam di-
versorum Stat. &c. et contra pacem.

For not
chusing
overseers of
High-
ways.

Juratōres, &c. quod cum A et B scurator.
pannor. infra Parochiam de A in comitatu prae.
(talibus die et anno) apud A. prae. in comitatu
predicto vitare essent sui prae. cepissent et
sensivissent tres pann. defectivos de bonis et car-
tulis ejusdem T. et pann. prae. ad tunc et ibid.
in custodia sua fuer. quidam tamen R naper, &c.
dictis die et anno, vi et armis, &c. apud A. prae.
in comitatu predicto pann. prae. a custodi. prae.
R et B eripuit et asportavit contra volunt. prae.
R et B ac contra formam, &c.

For rescu-
ing cloth
from the
searchers.

Juratōres, &c. quod cum E Armiger. vic.
com. prae. ejusd. brev. eidem vic. direct. per
quoddam Warran. suum gerent. dar. (talibus die
et anno, &c.) mandasset quibusdam J. &c. bas-
vis suis cognit. quod non emitterent propter
aliqu. libertat. com. prae. quin caperent B. &c.
naper, &c. si invent. fuer. in basiva ejusdem vic.
et eum salvo custod. Ita quod idem sic haberet
corpus dicti R coram custodi. pacis dicti domini
Regis et Justic. pro pace sua conservand. assign.
ad proxim. General. Session. pacis die Martis
tunc proxim. post clausum Pascha revend. in so-
dem com. ubi et tunc teneri. corrigenda ad

For a rescue
after an ar-
rest by the
Sheriff on
the Process.

Cap. 16. respondend. dicto domino Regi de quibusdam transgr. & contempt. unde indict. existerat virtute cuius Warran. quidem iidem I et D talibus die et anno apud S. pred. in comitatu predicto ceperunt corpus pred. R et ipsum B ad tunc et ib. in custodia sua habuer. quousque postea scilicet dicto 1. die F et an. supradict. ad tunc apud S. pred. in Comitatu predicto, quidam R nuper de, &c. aggregatis sibi quam pluralis malefactor. ignor. gladiis, clypeis, baculis, ferro munito, et falcastro, armati illicite, riotose, & vi et armis sese assemblaverunt, ac in et super pred. I et D ad tunc et ibid. in pace Dei et dicti Domini Regis existen. insult. fecer. et pred. R vi et armis, et illicite extra custod. suā ad tunc et ib. rescusserunt et eripuer. contra volunt. eorund. I et D Balliv. pred. Necnon pred. R seipsum a custod. pred. dictor. I D ad tunc et ib. illicite et vi et armis pred. rescussit et evasit contra voluntatem dict. I et D, et contra pacem.

For nor pay
ing Wea-
vers wages.
according
to the Ra'e
set.

Juratores, quod A, &c. *Clotbier*, talibus die et anno, apud W. pred. in Comitatu predicto, quidam *Salar*. taxat. per Justic. Domini Regis ad pacem, &c. hujus Com. Glouc. ad generalem Session. pacis Com. pred. tent. apud Glouc. die Martis proxim. post claus. Paschæ nunc ul. praterito textorib. suis non dedit aut solvit, sed inde voluntarie default. fecit in contemptu dicti Domini Regis ac in magn. depauperat. textor. suor. pred. contra form. Stat.

For killing
Calves in
the Lent,

Juratores, &c. quod E &c. talibus die et anno existen. tempore quadagesim. apud L. pred. in Comitatu predicto necuit tres vitulos et carnem eorundem pro veniend. ad tunc et ibidem vendidit diversis subicit. dicti Domini Regis, mul-

iam habent legitimam Licentiam illo tempore sic
faciendum contra formam & contra pacem, &c.

Jur. &c. quod *A B* nuper &c. talibus die et an-
no vi et armis, &c. apud *H* pred. in Com. pradi-
quoddam columbarium Anglice *a Pidgeon house*,
cujusdam *H Gen.* circa horam nonam in nocte e-
jusdem diei injuste et illicite frugerunt et intrave-
runt et tres columbas Anglice *Pigeons* pretii vi d.
denar. de bonis et cattallis ejusdem *H* adunc a-
pud *H* pred. in comitatu pred. in columbar. pred.
invent. injuste & illicite cepit et asportavit contra
pacem, &c.

For robbing
a Pigeon-
house.

Jur. &c. quod *A B* &c. talibus die et anno apud
L pred. in com. pred. ad diversas columbas et al-
voluer. adunc & ib. in quibusdam arcibus sagitta-
verunt necnon quendam reria pro captione colum-
barum adunc & ibid. teten. ac quatuor columbas
valor. 4. d. adunc & ib. cum arcibus & retibus suis
illicite occid. contra formam, &c.

For killing
Pigeons
with bowes.
arrows, and
nets.

Jur. &c. quod, &c. in quodam torment. An-
glice vocat. *a hand-gun*, pulv. et Glandumbe-
plumbeis onerat. Anglice *charged with powder*
ad ball-shot, in quoddam tres columbas adunc
apud *F* pred. in comitatu pred. sagittavit & expo-
teravit & pred. tres columbas adunc & ib. occid.
contra formam, &c. ac contra pacem, &c.

With guns.

Jur. &c. quod *A* &c. talibus die et anno quan-
dam viam pedale. ducent. a *B* versus *C*. in & per
quoddam prat. vocat. *S* in *T* pred. in comitatu
pred. minus iuste obstruxit et inclusit ita quod Le-
gi dicti Domini Regis per viam illam pedalem
& redire nequeant ad magnum gravamen &
documentum Legiorum dicti Domini Regis in
paribus illis moram trahent. ac contra for-
mam, &c.

For stop-
ping up a
foot-path.

For killing
Cattle in
the forest.

Capit. I.

For stop-
ping a horse
way.

Iur. &c. quod E &c. quandam communem vie-
giam viam equestrem ducen. a B pred. in comita-
tu pred. verum C in et super quandam ripam sive
mourum contiguit adiacen. eundem P vocat. S in
T pred. in comitatu predicto minus iuste obstruit
& locust ita quod Ligei, &c. per viam illam e-
questram, &c. (et supra.)

Against a
Constable
for taking
money for
watch, and
not watch-
ing.

Iuratores quod R &c. existen. Constabularis
paciis parochie de B predicti in comitatu predicto
(talibus die & anno) diversis denariorum sum-
p. sicut de den. de A & B i. d. ac aliis sub-
dit. dicti Domini Regis pro vigiliis ibidem tenend.
illicite et extorsive habuit et recepit, ubi pred. R
nullas tales vigilias custodivit, nec aliquem talem
summam recipere debet contra pacem, &c.

For keep-
ing a mans
servant
away from
him. f

Iuratores, &c. quod A &c. die et anno, &c. et
semper postea usque diem captionis huius inquisi-
tionis, viz. per spatium duorum mensium integro-
rum apud S pred. in comitatu predicto retinuit,
cepit, & detinuit quendam I aduocatum et diu antea
existen. servien. cuiusdam I de S pred. ac aduocatum
habentem diversos annos ad servien. eidem I in
arte sive mysterio suo de T Anglice a Weaver,
quem idem I aduocatum utebatur ad grave damnum
ipsius I et contra formam, & contra pacem, &c.

Against a
rumpster
person.

Iur. &c. quod H nuper, &c. talibus die et anno
vi et atomis, &c. apud B pred. in com. pred. fuit ac
alibi in comitatu predicto est et per multos annos
præterit. existit communis pacis dicti domini Regis
perturbator & oppressor quam plurimorum vic-
norum suorum et aliorum Ligeorum dicti domini
Regis in comitatu predicto, necnon communis ma-
lesici, rictor, pugnator, et seminator litii et dis-
cordiæ inter vicinos suos predicti. ad magnum di-
spendium, gravamen, & perturbationem Ligeo-
rum

nam dicti domini regis in comitatu predicto
contra formam, &c. et contra pa-
cem, &c.

Iuratores, &c. quod Inuper, &c. die et anno,
&c. et diversis vicibus tam antea quam postea vi-
et armis, &c. apud T pred. in comitatu predicto
custodivit & manutenuit Domum Lupinator. An-
glice a *Siers-house, or bawdy house*, ad grave no-
cumentum subdit, dicti domini regis, contra for-
mam, &c. et contra pacem, &c.

Iuratores, &c. quod C &c. die et anno, &c. ac
diversis aliis diebus et vicibus tam antea quam
postea apud C pred. in comitatu predicto ac alibi
in comitatu predicto fuit et adhuc est communis
ebriator, Tabularum frequentor, et pacis dicti do-
mini regis perturbator in malum exemplum, &c.
contra formam, &c. contra pacem, &c.

Iuratores, &c. quod A &c. die et anno, &c. ac
diversis aliis diebus et vicibus tam antea quam
postea apud T pred. in comitatu predicto obstinate
et ex autoritate sua propria et sine ulla Iustic.
pacis dicti domini regis in comitatu predicto ad-
missione aut allocatione super se assumpsit custo-
dire & custodivit communem Tabulam Anglice a
common Alehouse or sypling house, contra for-
mam, &c.

Iuratores, quod A nuper de, &c. cleric. existens
rector eccles. de C. pred apud C pred. in comitatu
predicto sine aliqua causa legitima recusavit ad-
ministrare sacramentum Eucharistie Anglice *The*
Sacrament, cuidam T adunc inhabitant. infra pa-
rochiam de C. pred. contra formam, &c.

For keeping
a bawdy-
house.

Against a
dunkard.

For keep-
ing an Ale-
house.

For refusing
to adminis-
ter the Sa-
crament.

R I N I S

E. W. P. G.

12/1/04

THE TABLE.

A Bjuration Chap. 6. Sect. 1
 Accessary, &c. Chap. 8. Sect. 11
 Adulterers. *See Incontinent persons.*
 Affrayers, *See Peace.*
 Ale-houses and Ale-sellers, chap. 6. sect. 20. ch. 7. f. 1. *Suppressed*, ch. 7. sect. 13. *Licensed de Novo*, ch. 7. f. 13. Ale-house haunters, c. 8. f. 23
 Allegiance, ch. 6. f. 21
 Appearance, ch. 12. f. 1, 2
 Apprentices, ch. 7. f. 4. ch. 8. f. 10. *Bound*, ch. 6. 26
Discharged, ch. 7. f. 16
 Archery, ch. 8. f. 24. Armour, *see peace.* Arraignement, ch. 12. f. 2. Arrest, *see imprisonment.* Arrow-head maker, ch. 8. f. 19. Assesment, *see Rates.* Assemblers unlawful, *see Riot.* Attorneys, ch. 8. f. 17. Authority, the opposers and refusers thereof. *See Good behaviour.*

B.

Baile. *See imprisonment.* Bastard, ch. 8. sect. 8.
 Barretors, ch. 8. f. 23. Bigamy, *see Marriage.*
 Behaviour: Surety thereof, chap. 12. sect. 1.
Against him that disturbeth a Minister, ch. 7. f. 9. *against him that doth abuse or oppose authority, the Officers or Ordinances of Law*, c. 7. f. 33. *Against him that hath a Bastard child, an incontinent person, him that keepeth a Bawdy house, him that frequenteth it, or Alehouses, Night-walkers, Barretors, Hedge-breakers, Evesdroppers, him that hunteth in a Park, him that destroyeth Fish-ponds*, c. 8. f. 23. *Discharged*, ch. 7. f. 5. Brewers, ch. 7. f. 4. ch. 8. f. 20.
 Bridewell, 39 Eliz. 4. 7. 7. Jac. 4. Bridges
 Nuisances therein, ch. 6. f. 26. *Repairing thereof.*
 chap.

The Table

chap. 6. sect. 26. Burgers, ch. 8. f. 8. Bur-
gers, ch. 8. f. 8. Buchers, chap. 8. sect. 20.
Buts, ch. 8. f. 24.
Calves. See Cattel. Cattel, ch. 1. sect. 3. ch. 8.
sect. 26. Cessuari, ch. 17. Certificate, of
a Recognizance for feyn, ch. 7. f. 10. ch. 14. f. 1.
Of an Oath, ch. 6. f. 10. Of a Respite, ch. 6.
sect. 19. chap. 10. sect. 3. Of a Return,
ch. 7. f. 4. Of a Record, ch. 17. Chancemed-
ley, see murder. Chandlers, c. 8. f. 20. Chal-
lenge, ch. 8. f. 8. Chesters, ch. 3. f. 3. by false
witness, chap. 8. sect. 14. Children, see Bastards.
Church, ch. 9. f. 1. Not comers thither, c. 8. f. 4.
Pighers there, c. 7. f. 4. Church-wardens, see
Constables. Clerks of the market, ch. 8. f. 17.
Clerks of Courts, ch. 6. f. 15. Clerk of the
peace, c. 8. f. 18. Clergy, fol. 93. Cloth and
Clothiers, woollen, ch. 6. f. 10, c. 7. f. 21. c. 8. f. 22.
Linnen Cloth, c. 8. f. 20. Common-prayer, ch.
8. f. 1. Commitment or imprisonment of him
that offends in the face of the Court, ch. 7. f. 32.
For a Fine, ch. 14. Concealment of an in-
quest, ch. 7. f. 17. Conspiracy of workmen, c. 7.
f. 33. Of Victuallers, ch. 7. f. 4. 33. ch. 8. f. 20.
to indict another, ch. 8. f. 14. Constables, ch. 8.
f. 17. Confession, ch. 12. f. 2. Conviction of
an offender, c. 12. f. 2. Coopers, ch. 8. sect. 20.
Coroners, ch. 7. f. 3. ch. 8. f. 17. Correction,
House of Correction, see Bridewell. Cottagers
ch. 7. f. 5. set up by over-seers of the poor, ch.
6. f. 28. Punishment of them and their wives, ch. 7.
f. 25, c. 8. f. 25. Counterfeiners, ch. 8. f. 14.
Crowes, ch. 7. f. 28. ch. 8. f. 20. Curriers, ch. 8.
sect. 20.

Deceit

The Table.

Deceit, ch. 8. sect. 17. in falling, Chap. 8. f. 10.
 Deer, ch. 8. f. 20. Departure out of the realm,
 fol. 67. Diers, ch. 8. f. 20. Directory, ch. 5.
 f. 4. ch. 8. f. 5. Drunkards, ch. 9. f. 1. ch. 8. f. 23.
 Egyptians, ch. 8. f. 8. Enquire, ch. 9. sect. 4. E-
 scape, ch. 8. sect. 10. Elcheator, ch. 9. f. 4. ch.
 8. f. 17. Elcheat, ch. 14. Eveildroppers, ch.
 8. f. 23. Examine, ch. 9. f. 2. Excommunicate,
 ch. 8. f. 17. 18.
 Faïres, see Markes. Fasting-dayes, what
 eaters that day, ch. 7. f. 4. ch. 8. f. 26. Feasts
 and Partridges, see Hunters. Felons and Fel-
 onies, ch. 9. f. 2. ch. 8. f. 9. 8. Felonies, ch. 9. By
 Homicide, ch. 8. f. 8. by defacing the phisio-
 my, ch. 8. f. 9. By Buggary, ch. 8. f. 9. By taking
 away a Woman, Chap. 8. sect. 2. By double
 marriage, ch. 8. f. 10. By sacrilege, ch. 8. f. 11.
 By Robbery, ch. 8. f. 11. By burglary, ch. 8. f. 11.
 By a servant robbing his master, ch. 8. f. 11. By
 burning houses, ch. 8. f. 11. Feto de se, ch. 8. f.
 9. Accessary, ch. 8. f. 12. By souldiers, ch. 8.
 f. 18. By Souldiers, ch. 8. f. 18. By abusing Re-
 cords, ch. 8. f. 7. By forcing a Deed, ch. 8. sect. 7.
 By Witchcraft, ch. 8. f. 6. By a Gaoler in abu-
 sing a Prisoner, ch. 8. f. 8. By conspiring against
 the Kings Council, ibid. By falsifying a Re-
 cord, ibid. By an abjured Person, ibid. By
 conspiring to falsify a Law, ibid. By assisting
 the transportation of sheep and swine, i-
 bid. By multiplication of gold, Croi ibid. By
 a man that hath the plague, ibid. By a new-
 feist Egyptian, ibid. By an incorrigible Rogue,
 ibid.

The Table.

ibid. By breach of prison, ibid. By Purveyors, ibid. Fines where and how, chap. 8, f. 8, 15, 19. Fifth dayes, see fasting dayes. Fishers, see Hunters. Flesh, ch. 7, f. 9. Foreible Entrers, ch. 9, f. 2. Fore-stallers, Regrators, Ingrossers, ch. 5, f. 4. ch. 6, f. 9. chap. 8, f. 20. Forger of Deeds, ch. 8, f. 14. Fowlers, see Hunters. Fraud see Deceit.

G. Gaoler abusing his prisoner, chap. 8, f. 8. Games unlawful, ch. 7, f. 4. ch. 8, f. 24. Gaol-delivery, ch. 1, f. 1. Collectors for Prisoners there, ch. 5, f. 13. Gawgeon, ch. 8, f. 17. Goldsmiths and gilding, chap. 7, f. 3. chap. 8, f. 20. Guns, ch. 7, f. 4. ch. 8, f. 24.

H. Hares, see Hunters. Hedge-breakers, ch. 8, f. 23. See Trespassers, and good behaviour. High-wayes, ch. 8, f. 22. ch. 11, f. 3. Hides, ch. 8, f. 20. Homicide, see murder. Horses, ch. 5, f. 4. ch. 7, f. 4. ch. 8, f. 17. Hostlers, ch. 8, f. 20. Horse-bread, c. 8, f. 8. Hunters, Hawkers, Fishers, chap. 8, f. 22, ch. 7, f. 4. ch. 8, f. 24. Hue and cry, chap. 8, f. 16. Houses burned, ch. 8, f. 11. pulling down, ch. 8, f. 13.

I. Jesuits see Recusants. Idle-livers. See Lovelers. Imprisonments, see Commitment. Incontinency, ch. 8, f. 23. Indictment, ch. 7, f. 11. 15. ch. 9, f. 2. ch. 11, f. 4. ch. 18 in roto. Inrolment of a Deed. Innates, see Cottages. Infants, see poore. Informers, chap. 8, f. 17. ch. 6, f. 13. ch. 11, f. 6. Ingrossers, see Fore-stallers.

In

The Table.

In-keepers, chap. 8. f. 20. Inordinate persons,
see idle-livers. Inquisition, chap. 9. f. 1.
 Judgement, chap. 13. sect. 1. Justices of the
 Peace, ch. 2. f. 1. ch. 4. f. 3. 4. ch. 8. f. 17.

Kine, *see Cattle.*

Labourers, *see Masters and Servants.* Lar-
 cens petit, ch. 8. f. 11. Legwood, ch. 6. f. 7.

Leather, ch. 8. f. 20. Lent, *see Fish-days.* Li-
 bellers, ch. 8. f. 14. Licenses, *see Testimoniall,*
 ch. 6. f. 17. *For wine,* ch. 6. f. 25. *For shooters,*
ibid. *For Drovers,* *ibid.* Loyters, *see*
Rogues and Poor. Lords day, ch. 8. f. 6.

M.

May-poles, ch. 8. f. 24. Maime, ch. 8. f. 13. Ma-
 sters and Servants, Labourers and Apprentices,
 ch. 1. f. 1. ch. 7. f. 4. 5. ch. 7. f. 16. Manslaughters,
see Murder. Major, ch. 8. f. 18. Marriage, ch.
 8. f. 10. Double Marriage, *see Felons.* Mar-
 kets, ch. 8. f. 17. Millards, ch. 8. f. 20. Ministers
 ch. 8. f. 17. Disturbers of them, chap. 8. f. 6.
Preaching, ch. f. 9.

Miscealance, ch. 8. f. 14. Milprison, chap. 8.
 sect. 11.

Murderers or Homicid:rs, Manslaughter, *see*
defendendo. Chance-medley, ch. 8. f. 9.

Felo de se justifiable, ch. 8. f. 9.

Musters, ch. 8. f. 23.

N.

Name, ill name, *see good behaviour*

Newes, reporters of false Newes.

Night-walkers, ch. 8. f. 23.

Nuances, chap. 8. f. 14.

Oath

The Table

Oath, chap. 9, sect. 2. Of *Allegiance*, chap. 6, f. 21.

Of *Supremacy*,

Officers, chap. 8, sect. 17. ch. 8, f. 19. *Their making and Ordering*, chap. 6, sect. 13, 12, 13, &c. Of *Treasurers of the County*, ch. 6, f. 18, ch. 8, f. 18. Of *Collectors of the money for the Gaole*, ch. 5, f. 13, chap. 8, f. 17. *Masters of Bridewell*, ch. 6, sect. 17. ch. 8, f. 17. *Their neglect*, ch. 7, f. 20. ch. 8, f. 16. Of *Treasurers for maimed Soldiers*, ch. 8, sect. 17. *Killing an Officer*, ch. 8, f. 9. *Orders of fugitives*, chap. 6, f. 2, 3, 4, &c. to the 14. ch. 7, f. 23. *Ordinary*, ch. 8, sect. 17, 18. *Overseers of the poore*, chap. 8, sect. 17. Of *high-wayes*, *ibid.* Of *Cloth*, *ibid.*

P.

Papist, see *Recusants*. *Partridges*, see *Pheasants*. *Peace*: *Sureties thereof*, ch. 5, sect. 1. *Peac-breakers*, *ibid.* *Ride armed*, ch. 8, sect. 19. *Prayers*, *ibid.* *Pensions*, ch. 6, sect. 24. *Perjured persons*, chap. 5, sect. 4, chap. 8, sect. 6. *Pewter and Brasse*, ch. 5, f. 4. *Pheasants and Partridges*, c. 7, f. 3, 4. *Plague*, see *Rates, Pelton &c.* *Pleading*, fol. *Pillory*, chap. 6, sect. 6, 15. ch. 8, sect. 19. *Poore*, ch. 5, f. 3, chap. 6, sect. 26. chap. 8, f. 25. *Pound*, *Pound-breach*, chap. 8, sect. 19. *Presentment*, chap. 10, f. 3. *Preachers*, see *Ministers*. *Premunire*. *Prices of commodities*, chap. 7, f. 12. chap. 8, f. 20. *Priests Popish*, see *Recusants*. *Prison and Prisoner*, see *Gaols*. *Procelle*, ch. 12, f. 1. *Proclamation*, chap. 5, f. 4. *Prophetes*, chap. 8, f. 15. *Punishment*, chap. 13, f. 2. *Purveyors*, chap. 8, f. 7, 17.

Quorum

The Table

Q

Opotum I. Chap. 1. Sect. 1.

R.

ape, chap. 8. sect. 10. Bates, chap. 6. sect. 23.
 For Brewers chap. 7. sect. 12. For Com-
 pany vessels, chap. 6. f. 5. For commodities, ch-
 ap. 1. 26. For Labourers, chap. 6. sect. 23. For
 Kings Bench and Marshalsey, chap. 6. f. 19. 23.
 For the more, chap. 6. sect. 23. For prisoners
 in the Gaole, ibid. For married Souldiers,
 ibid. For carrying a prisoner to Gaole,
 For the Plague, chap. 6. sect. 23. For Warr-
 fol. 4. 42. Recognizance, chap. 2. sect. 1.
 chap. 5. sect. 2. chap. 7. f. 14. chap. 12. f. 4.
 Discharge, chap. 6. f. 19. chap. 7. f. 14. Re-
 cord, chap. 5. f. 4. Of a Presentment, chap. 5. f. 4.
 Recusants, chap. 5. f. 4. Regrators, see Fore-
 stallers. Release of surety of good behaviour,
 fol. Restitution, chap. 7. sect. 21. Retain-
 ing, see Servants. Rioters, Rourers, un-
 lawfull Assemblers, chap. 1. sect. 1. chap. 5. f. 1.
 chap. 8. f. 14. Robbers, chap. 8. sect. 10.
 Rogues, chap. 6. f. 17. chap. 6. f. 26. chap. 7.
 f. 1. 10. Incorrigible Rogues how a Felon,
 chap. 8. f. 8. Rescuers, chap. 8. f. 10.

S.

Sabbath, see Lords Day.

Sacraments: They that come not thither, chap
 8. f. 6. Depravers of them, Sacriledge.

Searchers of Tyle, chap. 8. f. 17. Of Pewter,
 chap. 5. f. 4. chap. 6. f. 11. Of Leather, chap
 8. f. 17. Se defendendo, see Murder. Se-
 raries, chap. 8. f. 6. Sessions, chap. 9. f. 2.
 What, chap. 1. How many kinds, chap. 1. f. 1.
 The time and place of keeping it, chap. 1. f. 2.

Generall

The Table.

Generall, Chap. 1, f. 2. Ch. 5, f. 4. *what may be done there*, ch. 5. Speciall, *what may be done there*, Ch. 7, f. 1, 2, &c. Ch. 8, f. 2. *what cannot be done out of them*, *what may be done out of* *Archer Sessions*, Ch. 7, f. 35. Servants, *see Masters*. Settlement, C. 6, f. 26. Shoemaker, C. 8, f. 19. Sheep, C. 7, f. 3. Sheriffs, Ch. 7, f. 3, 5. C. 8, f. 17. Slanders, C. 8, f. 14. Soldiers, C. 9, f. 4. C. 7, f. 3, 4. C. 8, f. 8. Stocks, *see* C. 8, f. 19. Steward, C. 8, f. 17. Submission, C. 5, f. 5. *Suits inter partes*, C. 7, f. 31. Superfeded, C. 7, f. 1. *Surplusage of the County stock*, Chap. 6, l. 24. Supremacy, C. 9, f. 1. Supervisors. *see Overseers*. Surveyors, *see Overseers*. Sweaters and cursers, C. 8, f. 6.

Tanners, C. 7, f. 4. C. 8, f. 20. Tiplers, *see Ale-houses*. Tile-makers, C. 8, f. 20. Tithers, C. 7, f. 3. Tokens, C. 5, l. 4. Toll-takers, Chap. 8, f. 17, 18. Trades, C. 8, f. 20. Transportation, C. 6, f. 2. C. 7, f. 2. C. 7, f. 20. Travellers, C. 12, f. 6. Traytors, C. 3, f. 2. High treason, Ch. 6, f. 7. Petit treason, C. 8, f. 9. Treasurers of the County-stock, C. 6, f. 12. Trespassers, C. 5, f. 3. C. 8, f. 13. Tryall of offenders, C. 9, f. 2.

V.

Vagrants, *see Rogues*. Victuallers, C. 7, f. 4. C. 7, f. 26. C. 8, f. 20. Usury, C. 7, f. 23. C. 8, f. 20.

W.

Warrants to take armour, C. 5, f. 4. Warch and ward, C. 8, f. 16. Weights and measures, C. 7, f. 3. C. 8, f. 17, 20. Wine, C. 7, f. 4, 27. C. 8, f. 20. Witches, C. 8, f. 6. Witnests, C. 7, f. 18. C. 9, f. 2. Women, C. 8, f. 10. Wood, *division of it*, Chap. 9, f. 3.

FINIS.

W. B. 3.

121. 1041

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